MVSEVM
BRITAN
NICVM

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NICVM

To the Right
HONORABLE,
HONOURABLE,
Right
WORSHIPFULL,
And Well-Beloved, the
COMMONS,
and PEOPLE of
England United in Parliament.

Most of Mankind Chuse
Pleasure to Employment,
An. 1564. and beyond
it with other Sta-
ries at large (in Volumes
and cuffs for the generality
to read, or buy) doth yield less
profit than hath been long wonder-
fully. I have presumed at the in-
stance of some, to Dedicate this
Treatise to you all, as it contains
A 2 ch-

The Great CHARTER of the Liberties of England,

granted to the People of the same,

by King Henry the third,

concluded between him and his Barons in diverse full Parliaments, as followeth.

HENRY, by the Grace of God, King of England, Lord of Ireland, Duke of Normandy and Guyen, and Earl of Anjou, To all Archbishops, Bishops, Abbots, Earls, Barons, Justices, Foresters, Sheriffs, Stewards, Servants, and to all Bailiffs, and our faithful Subjects, which shall see this present Charter, greeting.

Know ye that we unto the honour of Almighty God, and for the salvation of the souls of our

Cap. 1. Liberties.

Lord Coke upon Magn. Chart. Vol. 1.

The last of those causes which the L. C. in his Preamble calleth the cause for which this Charter was made, being for the amendment of the Realm, was (saith the L. C. upon the last chapter of confirmatio Cartarum, fol. 599.) no small great mischiefs and inconveniences, which annoyed the whole Realm before the making of both Charters, viz. this and the Charter of the Forest, which (saith the L. C. in his Preface) were but declarative Acts of the old Common Law of the Land, and no introductives of any new Law. If the mischiefs, and inconveniences of the Realm were great before the said Acts were made to declare the Laws of the land, which formerly the lawyers reserved to themselves, till then undeclared? Were there not greater since those Acts were made, and the Laws thereby declared, and since the accord of King and People, to keep the same inviolable, when, and as often as they were violated by Kings, and their Counsel, learned in the Laws? As hereafter shall appear.

Event and Open.

Cap. 8. Debt. Deb. ports. Suet-ties.

... Debt, that Duc Ballifts shall not ... fatisfie any lands, or rent, for any ... debt, as long as the present goods ... and chattels of the debtors do fuffice ... to pay the debt, and the debtor him- ... felf be ready to fatisfie: Therefore ... shall neither the pledges of the debtor ... be diftrained, as long as the princi- ... ple debtor is fufficient for payment ... of the debt; and if the principal debtor fail in payment of the debt, having ... wherewith whereby to pay, or ... not, where he is able enough: The ... the pledges shall anfwer for the ... and if they will, they shall have ... (Lands, and rents of the debtor, until ... they be fatisfied of that which they ... before paid for him, except that the ... debtor can fhew himself to be acquit- ... ted against the sureties.

L. Coke upon M. C. fol. 19.

... We (quoth the Lord Coke) ſpeaking of ... the politique capacities of a King, ... tendeth to his Successors. And ... Ballifs, are meant Sheriffs, ... Writ Baliva mea, &c. And by ... words shall not ſeiz is expreſſed ... Kings Grace, who by the Common-La ... has Execution against his Debtors ... dies, Lands, and goods. And by ... Statute of 33. Hen. 8. cap. 5. ... Sheriff is to inquire &c. and to exte ... all Lands, Goods, Chattels, &c. and ... take and imprison the Bodies, as by th ...

If We extend to Successors, even Expost
on King Hen. 8. Why not longer? and
Quer.
Why not hitherto? If the King of his
Grace remitted by this Act the exe-
cutions which the Common Law
gave him before against his Debtors
Bodies, Lands, and Goods, in case
of having wherewith to pay,
through decay of their estates by un-
avoidable necessities; then the Kings
Debtors obtained of the Kings Grace
as much Liberty for their bodies, as
the King gave to all his free subjects
by the 29th of this Act, viz. No Free-
man &c. And for his Estate as much
as the proverb saith; *Where nothing*
is to be had, the King loseth his
due. If the King did not remit so
much by this Act, then did he gain
thereby more than he gave, contra-
ry to the opinion of all Lawyers,
that say, All Acts of Parliament are
to be expounded for the benefit of
the Subject. And what, and how did
he gain? but contrary to his Honour,
much more to his Grace, when two
parts of his subjects were hedged in
from

by this Act, as Pledges to pay for
his undone Debtor, and to undoe
themselves and their families by the
bargain. And (their estates being
too little to pay their own debts)
their Creditours must see the King
first served out of the same, to their
so small prejudice, if not undoing,
whereby many are injured through
one mans occasion. If therefore this
Act ought to be confirmed for the
honour of the King, and benefit of
the subject (as I believe it ought,
and that L. C. saith, others have
thought so) it followeth, That the
Statute of the 23. Hen. 8. 9. was
made (as many more were before
and since) against Mag. Chart. and
not onely against Kings honour
and grace, but also their Oathes, to
the undoing of multitudes of their
subjects, which was ungracious for
their Counsel learned in the Laws,
to give advice, or assent to the mak-
ing such Laws, or when made, to
allow them, much more to maintain
them: being that all Judges are to
receive Mag. Chart. for a Plea a-
gainst all Statutes made against it.
And all Judgements given against
Mag. Chart. are, and ought to be

void

Cap. 9. London &c.

L. C. upon M. C. fol. 20.

This Chapter (saith the Lord Coke) is excellently interpreted by an ancient Author (quoting the Mirrour in the margent) who saith, that by this Chapter the Citizens of London ought to have their Franchises, whereof they are inheritably by Royal Title, of the gift, and confirmation of the Kings, which they have not forfeited by any abuse; and that they shall have their Franchises, and Customes, which are sufferable by right, and not repugnant

to Law: And the same interpretation serveth for the Cinque-ports, and other places.

Expost. and Quer.

Doth not this Charter, and chapter sufficiently declare, and Lawyers (though unwillingly, yet plainly) confess, that London and the rest, had old Liberties and customes, and that they are inheritable thereof, and ought still to have the same, so long and so far, as not repugnant to Law, (which I conceive to be this Law, and not any that have been made since against it?) And do not the several Charters of London, and other Cities and Towns, obtained since this Law, declare further what those Liberties, and Customs were? And if the Kings learned Councel have consented that he should grant, or Professors of the Law advised Londoners, or any other Citizens, to ask things repugnant to this Law, and prevailed with both parties? Have they not misled both parties? And though they have so done often; yet in this case, doth not the Statute of the 19th of Henry 7. chap. 7. help the offendors with less danger than the forfeiture of their Customs, and

Liberties,

offences, if they offend especially
herein those points, which their law-
yers so much misadvised them to
ask, and the King him to grant?

Common Pleas shall not follow Ca. 11. Com-
our Court, but shall be holden in mon-
some place certain. Pleas.

Before this Statute (saith the Lord C.
Coke) Common Pleas might have been upon
holden in the Kings Bench, and all M.C.
Writs returnable into the same Bench. fol. 22,
And where the Writs were holden co- 23.
ram Rege, and followed the King's
Court, and removable at the Kings
will, the Return were Ubicunq; fue-
rimus in Anglia; wherevpon many
inconveniences ensued, and great trou-
ble of Jurors, charges of Parties, and
delay of Justice; for this cause this
Statute was made, &c. And Pleas of
the Crown were divided into high
Treason, Misprision of Treason,
Petty Treason, Felony, &c. and
belong to this Court, because contrà
coronam & dignitatem, &c. So that of
these (the Lord Coke saith) the Com-
mon Pleas cannot hold Plea. But to
shew that Common-Pleas may be hol-
den in the Kings-Bench, he saith, That

the King is one of this Statute, and may sue in that Court. Secondly, If a man be in Custodia, any other may lay upon him any Action of debt, covenant, or the like personal Action, because that he that is in Custodia, ought to have the priviledge of that Court. And this Act taketh not away the Priviledge of any Court. Thirdly, any Action that is Quare vi & Armis, where the King is to have a Fine, may be sued in this Court. Fourthly, Replevins may be removed thither. Fifthly, (saith the Lord Coke) Albeit originally the Kings-Bench be restrained by this Act, to hold Plea of any Real action, yet by a mean, they may; as when removed by writ of Error from Common-Pleas, thither for necessitie, lest any party that hath right should be without remedie, or that there should be a failer of Justice; and therefore Statutes are always to be expounded so, that there should be no failer of Justice.

Expost and Quer. Do not the L. C. words, viz. (Be it further Enacted, &c.) implie, that after the Statute, Common-Pleas ought not to be holden in the Kings Bench, nor all Writs be returnable into the same Court? Doth the Register

gister, or *Natura brevium* therefore shew any Writ for debt returnable to the *Kings-Bench*? Doth not *Fitz. H. natura brevium* fol. 129. h. & k. declare that there is no Writ in Law for debt, but a *Justicies*, which is a judicial Commission to the Sheriff to determine the matter, *Vt ampliùs inde clamorem audiamus*? So that the *Kings-Bench* ought not to be troubled with the matter at all? or if an Original returnable to the *Common-Pleas*? Doth not that Original declare it self to be a Summons? And doth not Mr *Kitchen* in his *Jurisdictions*, fol. 4. *Tit. com. bank*, declare, that Summons, Attachment, and Distringas, successively distant fifteen days one after another, is the onely Proces at Common Law? The *Kings-Bench*, and *Common-Pleas* ought to practise by the Common Law, declared by *Mag. Chart.* and accord of the King and People; declared and injoyned to be observed inviolable, and immutable for ever. Did ever any Judge of the *Kings-Bench*, or *Common-Pleas*, advise, or consent to the making any Statute, or Law to the contrarie (being sworn to execute and maintain *Mag. Chart.*

as soon shall appear all were, or ought to be) and was not perjured? Did, or doth any Judge of any Court of *Record*, observe any such Law being so made, or practice, or suffer to be practised (where he hath authoritie) any suits or proceedings contrarie to *Magn. Charta* and was; and is he not perjured? Doth not the practice of the *Kings-Bench* still shew, that thence doth issue no other Writs for debt, than a Bill of *Middlesex*, or Latitat, which expresse themselves to be for Trespass? Are not those Writs still returnable *ubicunque fuerimus*, and the *Kings-Bench* therefore still removeable at the Kings will? whereupon (as saith the L. *Coke*) many discontinuances ensue, and great trouble of Jurors, charges of Parties, and delay of Justice; for which causes (he saith) this Statute was made. How doth this Statute (if therefore made) prevent such discontinuances, trouble, charges, and delay of Justice, but by declaring, that *Common-Pleas* shall not follow the *Kings-Bench*? How contradictorie to himself is the L. *Coke* then, when he laboureth to make *Common-Pleas* lawfull to be holden in the *Kings-Bench*?

Court? And if (as he saith) the *Pleas* of the Crown were divided into high Treason, Misprision of Treason, Petty Treason, Felonie, &c. & limited to the *Kings-Bench*, because *cont. coron. & dign. Regis*; so that of these (saith he) the *Common-Pleas* cannot hold *Plea*. By what Justice can he desire to hold *Common-Pleas* in the *Kings-Bench*, unless because more gainfull, (as when he was supplanted by his Successour, under colour of preferment, from the *Common-Pleas* to the *Kings-Bench*, he passionately expressed the difference, saying, That he was called from the warm kitchen, to the cold hall:) and that therefore he desired to reduce Justice to his desire, rather than his desire to Justice? But let us examine his Arguments for that purpose. First, (saith he) The King is out of this Statute. How out of this Statute, which above all other, the King was sworn to observe, and obey, and to violate was perjurie, and punishable in all men without regard of persons, and no less in the Lo. C. to say and write otherwise? But (saith he) the King might sue in his *Bench*. And so might he in any Court of *Record* which he pleased;

pleased; for all such Courts are called his, and have power under him to administer Justice to all men, according to their Commissions and Charters, as well as the *Kings Bench*; and therefore he had his Attorneys, and Sollicitours, attending many such Courts. Secondly, (saith he) if a man be *in custodia*, any other may lay upon him any action of debt *&c.* because (saith he) that he that is *in custodia*, ought to have the priviledge of that Court. Now if a man be *in custodia* for Fellonie, *&c.* and an Action for Debt, *&c.* be laid upon him, shall his priviledge in being *in custodia* keep him from hanging (if he deserve it) till he pay the debt? or if he be hanged, and have any goods, shall the Creditour be paid his debt out of the same; or if he have any lands, out of the *Escheat*? I believe not. If a man be not *in custodia*, but a Justice of Peace, or a Grand-Juror, attending Sessions in *Cumberland* or *Cornwall*, what priviledge of this Court doth he need? If he be arrested there, upon a Writ of *Nesipasa*, when he is guiltie of none, is he not more disgraced than priviledged by this Court?

Court? when he is forced to appear in this Court for trespass and nothing declared against him for any such matter, ought he not to be dismissed for that matter, with costs and damages, answerable to his disgrace and expences, though arrested at the Kings suit? Shall the King do any man wrong? how then doth the Maxim hold, that he cannot? Shall this Court abuse his name, to wrong his Subject? Is not Injustice, Perjurie in a Judge sworn to do Justice? Is not all against *Mag. Chart.* and ruth, which is, God himself? If not so dismissed, shall a declaration be admitted against him upon an Original for debt, where neither such Writ, nor cause belong? And shall the Defendant be inforced to wait upon his Bail for trespass, to answer that Declaration? is not that more Injustice? And moreover, if that Writ, or the Return thereof be forged, (as all or most Originals directed to the Sheriffs of *London* or *Middlesex*, are; alwel by Clerks of this Court, and so filed upon Record here as by Attorneys in the *Common-Pleas*, there;) shall that Declaration be admitted to say, that the

Defend-

Defendant is *in custodia*, (which is falſe,) and be made a Record, which would be accounted the next truth to Goſpel? And ſhall not the Defendant be admitted to plead *Mag. ch.* againſt the juriſdiction of the Court, and ſuch lying Records? If not; is not all this more Injuſtice and Perjurie? Shall Judges give Judgements upon falſe Records (exceot to burn them, and punish the makers, and cauſers) and ſhall not they be counted, and called falſe Judges, and Perjurers; and their judgements falſe judgements and perjuries? Shall they, that commit Debtors into their Marſhals cuſtodie, upon ſuch judgements by their priviledge (as they call it,) ſay that this Statute doth not take away ſuch priviledges, when the Lo. C. himſelf ſaith, that all Statutes ought to be expounded ſo, that there ſhould be no failer of juſtices and this Statute, being *Mr. Ch.* (chief of all Statutes) and all its Confirmations ſay, that equal juſtice ought to be done to all men, without regard of perſons? What Statute or cuſtom did, or can give any priviledge to any Court to the contrarie? What benefit of priviledge

hath

suit the Debtor, that is so commit-
ted by this Court, and its privileges?
but his undoing, and his families, and
often his untimely death by famine,
and misery? Is not that so occasi-
oned by the rigour, and illegalitie of
this Court, an offence of the highest
nature, of Murther and Perjurie?
Who gaineth any thing by this pri-
viledge, but the Court, and their
Marshal in extorted Fees, to the
damnage of both Creditor and
Debtor, and often the ruin of both
or either? Why therefore doth the
L. C. call it a privilledge to the party
in Custodie, when it appeareth to be
no benefit, but prejudice unto him,
and that more aggravated, to have
more Actions laid upon him for more
debts occasioned (perhaps) by his
imprisonment? What law, or reason
requireth any privilledge to any man
for debt, since this Statute in the
29 chapter, freeth all mens bodies
from imprisonment, untill they be
lawfully tried by their Peers? and
no law, but an abortive Statute made
25. Ed. 3. cap. 17. and repealed in
the 42 of the same King, (as afore-
said) gave an Arrest against Debtors
but Merchants and Accomptants

and

and a Statute made in the said 25 year of the said King, gave the Creditors two parts of all their Debtors lands, & all thei goods (except the beasts of their plough) for satisfaction of their debts, which Statute is still in force, and daily executed accordingly? As for Accomptants, Debtors, and Tennants to the King, that are so indeed, if the Court of *Exchequer* be thought proper for them; why should others that are not such indeed, be sheltered to defend or countenanced to offend under that pretence? And as for Members of any Court, why ought not they to sue, and be sued by their Attorneys in other Courts than their own, since it is unnatural for any bodie to suffer any of its Members (though never so corrupt) to be put to any smart, which it may avoid? And may not, nay ought not every just Court avoid such suits, and the suspition of their injustice by entertaining them, and proceeding therein, by leaving them to the justice of other Courts of competent Judicature, as all other Courts do leave their Members to the mercy of the Courts at *Westminster*?

or

or may not, may ought not all Courts of Judicature within their Jurisdictions, determine the causes of all such Members of the Courts at *Westminster* as shall be found, and arrested within their Jurisdictions, notwithstanding any Writs of priviledge, or other Writs to remove them, before they be determined; rather than the Courts at *Westminster* may send for the Members of every Court, to be Justified by them? For who can say, he hath ever found any Justice there against any priviledged man? And how many that be no Members of any Court there indeed, are so countenanced, as subordinate to some ill Member, or other there, and have their Law for nothing, to bring Fees and gain to one or other of those courts, out of honest mens purses and Estates, against whom they can shew no colour of right any where, but where they know they shall be favoured, and their Adversaries oppressed? And how many men of good Estates have been, and daily are, not onely oppressed, but undone by that means? Thirdly, for Trespass, *vi & armis*; Is it but a common Plea, and consequently proper to all

courts

courts of Record, and rather to be tryed within that jurisdiction where the offence is committed, than elsewhere? And hath not the King his Fines imposed and levyed by the authority of all such Courts, as well as by the *Kings-Bench*? Fourthly, for Replevins, may they not as well be removed to, and determined by the *Common-Pleas*, as in the *Kings-Bench*? Fifthly, what meaneth the Lord by his words, *viz.* [*Originally restrained*] but that the *Kings-Bench* is restrained from having any original Writs Returnable thither in *Real Pleas*? And is it not as much restrained from originals in *Personal Pleas*, that are as *Common-Pleas*, as *Real*, by this Statute? Or by what other Statute, Law, or President, is it inabled to have any originals returnable to it for debt, when the Register and *Ret. brevium* have no such Presidents, as aforesaid? Is not therefore all the practice of the *Kings-Bench* for debt, unjust, and perjurious, as aforesaid? and moreover a faint action, &c. as the prisoners for debt in that Court have lately set forth by their Petition to the Lord General, and his Officers concerning this matter.

A Free-man shall not be amerced for a small fault, but after the quantity of the fault; and for a great fault, after the manner thereof, saving to him his contenement: a Merchant likewise saving his Merchandize: And any other Villain than Ours shall be likewise amerced, saving his wainage, if he fall into Our mercy: And none of the said Amerciaments shall be assessed, but by the oaths of honest men of the Neighbourhood: Earls, and Barons shall not be amerced, but by their Peers, and after the quantity of their trespass. No man of the Clergy shall be amerced after the rate of his spiritual benefice, but according to the rate of his lay tenement, and the quantity of his trespass.

Caput 14. *Amerciaments.*

A Free-man here, hath a special understanding (with the L. C.) and is taken for a Free-holder; and this appeareth by this clause, Salvo contenemento suo, *viz. Saving his Free-hold, &c. This Act extendeth to Amerciaments, not to Fines imposed by any Court of Justice, &c. Free-men are not intended to officers, or ministers, or officers of Justice, &c. The word of* Moderata misericordia, *giveth remedie to the Partie that is excessively amerced, &c. Albeit the Law of England*

Lord Cook upon *Magna Charta* fol. 27.

is

it a Law of mercy, yet it is now turn
to a shadow; for where by the wisd
of the Law, these Amerciaments wer
instituted, to deter both Demandan
from unjust suits, and Defendants fr
unjust defences, which was the ca
in former times of fewer suits, &c.

Expost and Quer. If amerciaments were institute to deter Plaintiffs from unjust suit and Defendants from unjust defe ces; and were the causes of few suits in former times; how come the Law turned to a shaddow in t Lord *Cokes* time? when in the *King Bench*, and *Common-Pleas*, amerciaments were as frequent, and grievou as in any other time, and suits n fewer, nay more numerous than be fore, (as Records of both Courts de clare) unless he means that all th Writs in the Register, and *Natura brevium*, both original, and judicial, (whereby suits were determined a mongst neighbours friendly a home) became useless, since *Habea corpus*, &c. carried all to *Westmin ster*? and that there injustice sha dowed under the name and habit o justice, remunerated the litigiou supporters of her being, with suc

share

...ames of her Spunks, that though she ...ribled their amerciaments, she ...ade them alwaies gainers; unless ...hen to satisfie their revenge, rather ...an their purses, they commuted ...heir monies for counsels, and coun...enances, to undo the opposers of ...heir malice, whereby both parties ...ouse loosers, and often ruined; ...nd injustice onely remained the ...ainer, and increased her kingdom ...s the Divel doth his) by such sui... and made more suits for West...inster, than all the Courts of Er...ors, and their Judges, Lawyers, and Attorneys there, shall wear out while they live, without extraordina...y helps of their servants.

No town, or Free-man shall be di... C. 15.— ...rained to make Bridges, or Banks, Bridg:; ...ut such as of old time, and of right Banks. ...ave been accustomed to make them ...n the time of King Henry our Grand...father.

No Banks shall be defended hence... C. 16. ...orth, but such as were in defence in Banks. ...he time of King Henry our Grand...father, by the same places, and the ...ame bounds, as were wont to be in ...is time.

Both the next precedent chapters ...fficiently expound themselves, so that

that the Lord Coke speaketh no m
to this matter, but that the Min
saith, That divers Rivers and
Banks were in his time appropria
and blocked up by divers persons, to
their common-fishings, which were
to be used there in the time of King
2. And I believe, there are m
more so done, more lately, wh
Commissioners for Sewers shall
well to look to.

C. 17. Pleas tol. Crown.

No Sheriff, Constable, Esch
Coroner, or any other pur
Hills, shall hold Pleas of the Crow

L. Coke upon M. C. 30.

One mischief before this Statu
was (saith the Lord Coke) That
Court, but the Kings chief Court, co
command Bishops to give their cle
to such as ought to have it: and
cause was, That the life of a man ou
to be tryed before Judges of learni
and experience of the Laws of
Realm; for Ignorantia Judicis,
[illegible] calamitas innocen
These are the reasons that the L
Coke alledgeth, why some Pleas of
Crown were taken from Sheriffs, Caste
lans, Escheators, Coronors, and Bailiff
under which names (saith he) La
com

...rebounded all inferiour Judges, ...ffices, and Courts of Justice: albe- (saith he) it be provided by the 9th ...p. of Mag. Charta, That the Barons ...the five Ports should have all their ...erties and Customs. These general ...ds (saith he again) must be under- ...d of such Liberties and Customs, as ...e set afterwards in the same Char- ...by expreſs words taken away, and ...ned to the Crown.

...ught not the Kings inferior Courts command ordinary Ministers to ...ive men their Clergie? And ...e not that serve before Magna ...ta, as it is usual since? For lei- ..., or never in our memories, did ...ops themselves attend any Court ...ut service: and now, should ...e necessary, onely for that im- ...ment? So the Kings Court ...ld be onely to command them: ...f Bishops may be spared, why ...not that Court for that cause? ...f by this Charter the King re- ...some Pleas of the crown from ..., that formerly had them; doth ...ow, that he restored all Pleas ...those that formerly had them? ...if under the name of Bailiffs be

Expoſt and Quer.

comprehended all Judges, and Juſti
ces, are not the Judges of the *Com*
mon-Pleas and Barons of the *Exche*
quer ſo comprehended? And a
none of them of ſuch learning a
experience in the Laws of the Realm
to try the life of a man, as Judge
of the *Kings-Bench*? Or elſe, wh
are they ſent for Goal-deliveries, a
wel as Judges of the *Kings-Bench*
are? Was it not provided by the
chapter of *Mag. Charta*, That *Lo*
don, and other Cities, Burroughs a
Towns, as well as the Barons of th
five Ports, and other Ports ſhou
have their Liberties and Free-C
ſtoms? Are all theſe now reſume
by this 17. chap? Who can unde
ſtand ſo? Or what meaneth the L.C
by his riddles? Shall *Magna Char*
contradict it ſelf, though the Lo
C. would, and doth here and elſe
where? Are not Commiſſions of
yer and *Terminer*, uſual for Tryal
mens lives, where Judges of th
Kings-Bench cannot reach, or da
not go? Doth not *London* and oth
Corporations execute their Charte
by their Recorders, when the *King*
Bench gives them leave; and the
do not the Judges of the *Kings*
Bench

Bench grant that such Judges may be as learned, and experienced in the Laws as themselves, for the Trying of mens lives? Are not mens lives Tryable for matter of Fact, and not of Law, (except Treasons that reach to thoughts?) Are not Jurors the Judges of matters of Fact? What great learning, or experience in Law is requisite for a Judge to pronounce the sentence of death, where the verdict hath determined the life? But how many true men have been hanged, and thieves saved by Judges interposing, and obtruding their pestifferous pretended learning and experience in the Laws between the weak consciences of ignorant Jurors, and the truth? which kind of Jurors they make Sheriffs return for such purposes, when they may have such returned as know the Facts, and have sounder learning and experience in express Law than themselves.

All wears from henceforth be utterly put down by Thames, and Medway, and throughout all England, but only by the Sea-coasts. C. 23. West. 2. &c.

L.C. upon M.C. fol. 38. *It was specially given in charge by the Justices in Eyre* (saith the Lord C.) *that all Juries should inquire of all such as Fished with Wears and Dams: and it appeareth* (saith he) *by Glandvil lib. 9. c. 11. That when any thing is unjustly occupied within the Kings demesne, or obstructed in publick waies, or Rivers, turned out of their right channels, or Citie-streets built upon, and in general, as often as any nusance to the Kings holding, or his High-way, or to any Citie, is committed: That is a purpresture, viz. an Inclosure, whereby one incroacheth, or maketh that several to himself, which ought to be common to all, or many; and every publick River, or stream, the Kings High way.*

Expost and Quer. If Wears be nusances (as I am sure they are) throughout *England* and *Wales*; and if Commissioners for Sewers, and Justices of Peace for want of them, be sufficiently authorized to reform such wrongs, and do not, because chief doers thereof, or sharers in the unlawful gain made thereof themselves: why not Justices in Eyer imployed to execute their charge, for the general amend-

ment

ment thereof, for the publick good!

One Measure of Corne shall be throughout our Realm, and one measure of Coin, viz. according to the Quarter of London and Winchester, that is to say, two pounds lesse by the weight as it is of Troyes, so shall it be of Measures. C.25. Measures, &c.

This Act concerning Measures, and Weights, that there should be one Measure, and one Weight through England, *is grounded upon the Law of God*, Deut. 25. v. 13, 14. *And this by Authority of Parliament hath been often enacted, but never effected.* 2. Coke upon M. C. fol. 48.

If Weights and Measures throughout *England* ought to be one, and that not onely by the Law of God (as the Lord C. instanceth) but also by this *Charter* of Agreement between the King and the People; Why did not the Lord C. (being chief Justice of *England*) sworn to do Law, and Justice too, and between King and People, (as partly before did, and hereafter further shall appear he was, or ought to have been) see this point of Justice, (so highly Expost and Quer.

required by the Law of God, and so mutually agreed upon by the Kings of this Land, and their Subjects) duly executed?

Ca. 16. *Inquisition.* Nothing shall hencefoorth be given for a writ of Inquisition, nor taken of him that prayeth the Inquisition of Life, or Member, but it shall be granted freely.

L. C. upon M. C. fol. 42. *A writ of Inquisition*, viz. De odio & atia, *anciently called* De bono & malo, &c. *which the Common-Law gave a man that was imprisoned, though it were for the most odious cause, for the death of a man, for which (without the Kings writ) he could not be bailed; Yet the Law favouring the Libertie and Freedom of a man from Imprisonment, &c. until the Justices in Eyre should come, at what time he was to be tryed, he might sue out this Writ directed to the Sheriff, &c.*

Expost and Quer. If a Writ *De odio & atia* was given by the Common-Law, to a man Imprisoned for the most odious cause, even for the death of a man; and if the Common-Law favoured

the

he Liberty of a man Imprisoned, so that he should be Bailed for such a fact, until Justices in Eyre should try him; Why not such a Writ still? since *odium* (which the Lord C. deemeth to be *hatred*) and *atia* (*malice*) and Prisoners for those causes are no cause now, than in former times? And why not Justices in Eyre (made since competent Judges by Commission without Writs) to determine such matters, which before they could but inquire of by Writs (as the Lord C. saith elsewhere, though he saith here to try them,) imployed for that service? And now if it be Lawfull for a Judge of the *Kings-Bench* to determine a debt, and to grant an *Habeas Corpus* for money, to bring the Prisoner before him to put in Bail; Why should he take money for the Writ, and refuse sufficient Bail tendred after Oath made of their sufficiency, without the plaintiffs consent? Nay after acceptation of the Bail, Why refuse to File it?

No Free-man shall be taken, or imprisoned, or be disseised of his Freehold, or Liberties, or Free Customs, or be Outlawed, or Exiled, or any

Ca. 29. *No Free man &c.*

any way otherwise destroyed; nor we shall not pass upon him, but by lawfull judgement of his Peers, or by the Law of the Land; we shall sell to no man, we shall denie, or deferre to no man, either Justice, or Right.

Lord Coke upon Mag. Chart. Fol. 46 &c.

Free-man extends to Villains both Sexes, &c. *Upon this Chapter*, as out of a root, many fruitfull branches of the Law of England have sprung. It containeth nine several Branches: First, That no man be taken or imprisoned, but by the Law of the Land; viz. The Common-Law, Statute-Law, or Customs of England, &c. Secondly, No man shall be disseised, viz. put out of his Freehold, that is, Land, Livelihood, or Liberties, or free Customs, such as belong to him by his free Birth-right, unless it be by the lawfull judgement, and verdict of his equals, or by the Law of the Land, that is (to speak it once for all) by the Due course, and proces of the Law. Thirdly, no man shall be Outlawed, or put off the Law, viz. Deprived of the benefit of it, unless he be Outlawed by the Law of the Land. Fourthly, No man shall be exiled, &c. unless according to the Law of the

Land.

Land. Fifthly, No man shall be disseised &c. unlesse by verdict, or according to the Law of the Land. Sixthly, No man shall be condemned, &c. but by the judgment of his equals, or according to the Law of the Land. Seventhly, We shall sell to no man Justice, or right. Eighthly, we shall denie no man Justice or right. And Ninthly, we shall deferre no man Justice or Right, &c.

Expost and Quer.

First, If no man ought to be taken, or imprisoned but by the Law of the Land, viz. the Common-Law, Statute-Law, and Customs of England: is it not cleared by our Expositions before upon the 11. Chapter, that Debtors are taken, and imprisoned in the Kings-Bench, contrarie to the Common-Law of England, declared by Mag. Chart. contrarie to the chief Statute of England, which is Mag. Char. and which the Lord Coke saith, should live (as was accorded by King and people) for ever? And contrarie to the Customs of England declared by Mag. Charta, and also by the Lord Coke, not to extend to the imprisonment of any

Debtours, but onely the Kings. And are not Debtors, other than the Kings, so imprisoned, as well elsewhere, as in the *Kings-Bench?* Secondly, if no man shall be disseised, *viz.* put out of his Freehold; that is to say, His Livelihood, Liberties, or Free-Customs, such as belong to him by his Birth-right; unless it be by the lawfull judgement, and verdict of his equals, or by the Law of the Land, that is to say, (once for all) by Due course, and Proces of Law. Are not Debtors disseised of their Livelihood, Libertie, and Freedom which belonged unto them as their Freehold by Birth right, when they are imprisoned in *London*, *Westminster*, or elsewhere, by Arrests, and Actions for Debt, whether due, or not, upon meer suggestions of Adversaries, not so much to Judges, as to Catch-pols, without any judgement, or verdict of their equals, and without Due course, or Proces of Law, which should be Summons, Attachment, and Distringas, before any Arrest, as aforesaid? Are they not taken in the Countrey from their Ploughs, which are their Livelihood, and their Countreys, and their Freehold

hold by Birth-right; by vagant Bum-bayliffs, and imprisoned there, till they give bail to appear at *Westminster*, and thence, instead of being remanded home to their sweet Farm-houses, large fields, and industrious Agriculture; are they not sent to stinking Goals, close dungeons, and idle Monk-cels, whereby they are allowed little more ground to walk upon while they live, than might serve them to lie under, when they are dead? Are not all the Corporations of *England*, and their free-chosen Officers, (that should do them justice at home) disseised of their Freeholds by Birth-right, and Charters, before and since *Mag. Char.* when they are prevented of the administration of justice in execution of their Offices to which they were sworn, (and heritable successively from their Ancestours by Custom long before *Mag. Char.* and since confirmed by the same, and by Charters dated before, and since) by *Certioraries*, *Habeas Corpus*, &c. before Judgement; and pretence of Errors after; and though never any proved, or assigned, yet the causes never remanded, but detained at

West-

Westminster, where the usual correction of pretended Errours, is not by making any thing that is crooked straight; but all that is straight crooked; so that both Plantiffs, and Defendants give their titles for lost in a mist commonly; but he that hath the wrongfull possession, and money, holdeth it; and he that hath the right, and no money, goes to his grave without it? Are not all the People of *England* disseised of their Freehold, Liberties, Franchises, and Free customs, when they are deprived of that justice which they ought to have administred amongst them at home, by virtue of the King's Writs (original for Enquiries, and judicial for Determinations) directed to Sheriffs of their own choise, in their own Counties, or Stewards of Hundreds, and Court-Barons, in their precincts, where the Free-holders themselves are Judges themselves, by ancient Common Laws, and Customs of *England*, before *Mag. Char.* and by it declared, and confirmed unto them as aforesaid? Can Writs of trespass executed for debt; or Capiases, grounded upon counterfeited Originals, be construed by any

Law

Law, to be due Proces of Law? Thirdly, Are men lawfully Outlawed upon Exigents for debt, grounded upon a repealed Statute? and are not all Debtors that are Outlawed, so Outlawed? Are men lawfully Outlawed, that are Outlawed upon Exigents, grounded upon *Summonitus*, or *Non est inventus*, counterfeitly returned by Attorneys, who at the time of the return were no Sheriffs, or competent officers? and are not all, or most Debtors, and Trespassers, that are Outlawed in *London* and *Middlesex*, so Outlawed? Are men lawfully Outlawed upon any Exigents, that are Outlawed without the judgement of the Coroners of the Countie wherein they are Outlawed? Are the Coroners of any Countie now adays, present at every, or any Countie, when, and where men are Outlawed? Are not their names nevertheless returned as Judges of every Outlary unknown to them, for the most part, or all? Are not those Returns false, and forged? and are such proceedings, the due course, and Proces of Law? How many thousands of the Free-men of *England* are Outlawed yearly, by such means? and how many

ny of them undone, before they can reverſe them? How many are impriſoned thereupon, and have all their eſtates ſeiſed for the King, by Sheriffs choſen without the conſent of the People? and often ſuch as purchaſe their Offices, to gain by ſuch means? How many Outlawries yearly are ſo clandeſtinely carried, that the parties ſo Outlawed, can hear nothing thereof, before they be impriſoned, and their eſtates deſtroyed as aforeſaid? How many are further damnified by ſuch Outlawries, procured of purpoſe, to debar them of their juſt ſuits in all Courts, until they reverſe them? How chargeable are reverſals thereof? What lawfulneſs is it, or what honour, for the Courts at *Weſtminſter*, to make unlawfull profit of ſuch unlawfull practiſes? Cannot the Judges at *Weſtminſter* be contented to have counterfeit Returns of their Originals in *London* and *Middleſex*, but they muſt alſo have the like Returns of their Exigents throughout the Kingdom? Are not ſuch Returns falſe, and perjurious in the Sheriffs that make them? Is it not ſufficient for Judges, to perjure themſelves, but that they

muſt

must animate others to do so too, by not punishing them, when they know that practise? Are not the Sheriffs of *London* and *Middlesex*, and all the Coroners of the Kingdom made liable by this practise to Actions of the Case, and to pay costs and dammages to the parties grieved? Are such Judges, Lawyers, *&c.* for the Peace, or Profit of the Common-wealth, that beget, foment, or suffer the causes of such Actions, causelesly, but for their own ends and gains? Are such Courts to be called, or counted Courts of Justice, that maintain any Actions, or Arrests upon unjust grounds, or colour of any mis-begotten Laws, contrarie to *Mag. Charta?* Are not Assaults, Batteries, Rescues, Riots, and Homicides, frequent upon such Arrests? Are not many mens lives lost, and more hazzarded, and their estates ruined thereby? And if a Catch-poll be killed for making, or attempting such unlawfull Arrest, do not the Judges use to adjudge it wilful Murther, though the wronged party doth but endeavour his justifiable defence? And have they not begotten a Statute for officers to plead the

General

General issue, by colour of which they justifie themselves, and their creatures, and condemn the guiltless? Are not the causers of Murther, as worthy to be hanged, as the doers? Are not they that maintain such Arrests, to the same ends as their Predecessors, Imps of the same generation? Why therefore their advice desired, or received in such matters? Are not the Releases of Errors, which Prisoners are forced to seal before they can be inlarged, rather proofs of their guiltiness, than acquittances of such practitioners? Are not their Errors manifest to be wilfull, and gainfull onely to themselves, and hurtfull to the Commonwealth? are such Errors, or Proceedings, to be called Due course, or Proces of Law? Then (to speak once for all) is not the Due course, and Proces of Law obstructed, and perverted? and a wrong course practised, full of Errors, Lies, Forgeries, Perjuries, &c. (as alreadie appeareth, and better shall hereafter) and cannot Law be executed without such practises? Doth not *Mag. Chart.* and all its confirmations, shew how it may? Are not they sufficient lights,

and

nd suits for the Due course, Proces,
nd Proceedings which ought to be
bserved in the right execution of
aw? And doth not the Lord *Coke*
onfess them to be such, and that
hey never misguided any man, that
rtainly knew them, and truly fol-
owed them? Fol. 126. Fourthly, *If*
a man shall be exiled, &c. Are not
Debtors exiled from their Native
oils in *Cumberland*, or *Cornwal*, and
om all their wordly comforts, of
Wifes, Children, Families, Friends,
nd Estates, both Real, and Perso-
al when called, and forced by *Ha-*
eas corpus &c. to attend Duke *Hum-*
ey in *Pauls*, or Judge *Owen* in *West-*
inster (as good dead as any Judges
ving) to hear or dispatch Suits by
he law of the Land in any way of
ustice, while the Suitors money
ails; or to relieve them with any
Alms, when their Purses are spent?
And if at last sent to the *Fleet*, or
Marshalsey, where they be pent up
s aforesaid; are they not worse Ex-
iled than into *Turkie*, where they
may have more Liberty of Land and
Sea, and live in less Slavery than un-
der Goalers in *England*, and have
more hopes to return home again
(like

(like Sir *Thomas Shirley*, and many others) than from these Hells whence few find Redemption? Had *Henry* of *Bullingbrook* been Imprisoned for Debt here, (as such now are) when he was banished to *France*, could he have hoped to be King of *England*, except he had made all his Judges, and Goalers, the best sharers of all his Usurpations, as all the cheating Prisoners in these places do theirs, as they and their Creditors can best tell, by dear, and daily experience? Fifthly, *If no man shall be destroyed*, &c. *unless by Verdict*, &c. [illegible] all Prisoners for Debt, who [illegible] forced themselves to destroy their small Estates to buy bread to eat in Idleness, and to pay Fees to Goalers, *&c.* and at last to Famish in the *Fleet*, or *Marshalsey*, &c. destroyed both in Lives, and Estates, and their Families to boot, without any Verdict given, or intended for their Lives? Nay are not all the Free-men of *England*, that are, or may be subject to Debts, consequently subject to the like destruction? And worthy so long as they suffer the Laws of *England*, (contained in the glorious Fabrick of the *Great* Char-

ter

of the Liberties of England, built their Anceſtors for a perpetual monument of their care of their Poſterity, and their Liberties for ever) be thus deſtroyed by an Hypocritical Generation of Phariſaical Pretenders to the onely knowledge of theſe Laws, which by that pretence, they thus pervert, to deſtroy all honeſt men whom it ſhould ſave, and to ſave all whom it ſhould deſtroy or puniſh; and that for unlawful reſpects, and conſiderations tending onely to their own profits, and ends. Sixthly, *If no man ſhall be condemned, &c. but by the judgement of his equals according to the Laws of the Land*; Are not all Debtors that are famiſhed as aforeſaid, Condemned for their Lives in effect, though but for their Debts in appearance, without any Verdict of their equals, ſo intended, contrary to the Law of the Land? Seventhly, do not all the Judges at *Weſtminſter*, ſell Juſtice, when they ſell Priſoners for Debt, their Writs of *Habeas Corpus*, &c. for money, when the King would have all his Writs of Grace to be given to his Subjects *Gratis*, and no Judge to take any Fee, or Reward for any thing

thing but of himself? Eightly, D
they not deny Justice when they de
ny such Writs *Gratis*? Ninthly, D
they not defer Justice, when the
detain poor men that are Bailable i
Prison, while they have sufficien
men ready to render for their Bai
till they be forced to borrow mone
of other friends, and to send far, and
stay long before they can receive i
to loose their Bail in the interim, and
be forced to seek others; by which
delays, their Goalers Fees increas
and their Dyet, Lodging, and Ex-
pences draw charges, which they
might have saved to find Bread fo
their Wives and Children at home
who perhaps are forced to fast by
that means; and to sell, or pawn
their Cows, or Clothes for this mo-
ney, this damnable money, thus ex-
torted by a Judge, for scribling his
Infamous name to a Writ, which
doth but wrap a man, and his cause,
faster in his clouches? O Merciless,
Miserable, Mercinary Judge! that
can neither give, nor lend so little as
his name, to so much goodness in
Policie, (if not in Charity) to give
a man Liberty to breath, and take
leave of his Home, upon security of

more

ter advantage both to Court, and arty, than his imprisonment to re- rn to his Pinfold. *Tadmanth* him- lf abhorreth such foolish covetous- es. Do they not defer Justice, hen by their Writs they cause In- ictments, Informations, and just uits Commenced in other com- etent, and more proper Courts in ll parts of the Kingdom, to be re- oved to *westminster*, and there de- ined without any Tryal these 40 ears? How many thousands of Pa- sts, and heinous Malefactors that ould have been punished in, and y their Counties, and Courts at ome, have by this means found *estminster*, and its Courts, heir onely Sanctuaries, and Pri- ledges for none but Eminent, pulent, Impenitent Offendours? ut is not Justice denyed, when any ailable man is denyed to be Bail- d? Or more, when Bail is accepted pon Oath for its sufficiency, and is enyed to be Filed, and the Party so ailed in Law, detained Prisoner ill, at the Judges, and Plaintiffs leasures? Briefly, Is not the dministration of all the Law, and ustice in *England*, Ingrossed and

Mono-

Monopolized at *Westminster*, wh
the Judges and Courts assume to
chief, and do exercise a plenary
risdiction over all others, so that th
suffer none but themselves to en
or to abuse Law; nor any to accom
plish any Justice, or to reform a
Errors, but onely themselves, wh
do pretend to correct all in their *Ex-chequer-Chamber*, where instead
correcting any, they confirm thei
own; which must be all as aforesaid.
Lastly, is it unknown that they were
wont to Buy their Offices of the
Kings Servants, and therefore to
Sell their Under-Offices to their own
Servants, Attorneys, *&c*? And was
not this the Buying and Selling of
Justice that is yet unpaid for, & had
need so to be Reformed? Is it any
reason that any should Buy Justice,
and not Sell it for gain by the Bar-
gain? Is it not Bought to that end?
Is it not to that end, Judges neglect
to give Attorneys their ancient
Oath, whereby they were wont to
be Sworn to do no Falshood, nor
cause any to be done in their Courts;
and if they knew any, to give know-
ledge thereof to the Judges, *&c*. that
they should increase no Fees, *&c*. (as

you

you may read it at large in the latter end of the *Attorneys Academy*. Is it not to the same end that Judges neglect to give all Plantiffs for Trespass, their Oaths that the Trespass amounteth to 40ˢ or more, or else let the Suit be Tryed in the Sheriffs Court at home, according to the *Statute of Glocester*, 6. *Ed.* 1. cap. 8? And is it not likewise to the same end, they neglect to take security of all Plantiffs, to prosecute all Actions with effect, or pay Costs and Damages to the Defendants, if they prove not their Issues? which Judges anciently used to do, and still ought, before any Declaration be admitted, or Plea required, as saith the *Mirror of Justice*? fol. 64. b. Is it not to the same end the *Chancery* neglecteth to take the Oath of all Complainants to make good their Bills in all points, or pay Costs and Damages in case they fail, and that before any *Sub-pœna* be granted them, according to the Statute 15. *H.* 6. cap. 4°? And were not all well ended, if all the end were that none were forsworn for Injustice, but the chief Justices? (though comfortless for them to be so wretched as to have no associates,)

is

Is it not the worse for the Peop
that their Ministers which ought
be Sworn as aforesaid, are no
Whereby old Attorneys without h
zard of Perjury, lead young Judg
Sworn to what they know not, to
what they should not? as when
many subtil and lying *Mercuries*
direct so many coverons and blin
Cupids to shoot forth their arrow
that they may stick them whor
they please, and commend the shoo
ers for hitting the marks that yiel
them the best sports of the gain?

The rest of this *Charter* I shall o
mit as aforesaid, for the reasons a
foresaid, and shall conclude this with
the beginning of another, made in
Confirmation, Renovation, and Per
petuation thereof, by King *Edward*
the first, in the 28 year of his Reign,
as followeth: *viz.* EDWARD by
the Grace of God, King of England,
Lord of Ireland, Duke of Guyen. To
all Arch-Bishops, &c. greeting.
That have seen the great Charter of the
Lord Henry our Father, of the Liber
ties of England in these words: And
so beginneth the *Charter* as aforesaid, and
endeth this, and it together saying, that
ratifying and approving these gifts,
and grants aforesaid, confirm, and
make

[illegible] the same for us, and [illegible] perpetually, and by [illegible] Letters renew the same, [illegible] granting for us, and [illegible] heirs, that this Charter, and all [illegible] its Articles for ever [illegible] shall be stedfastly and inviolably observed. And if any Article in the same Charter contained yet [illegible] perhaps hath not been [illegible] we [illegible] will, and by [illegible] Royal command [illegible] henceforth firmly they be observed. Held, &c. being witnesses. [illegible] at Westminster under Our [illegible] the 28 of March, in the 28 [illegible] Reign.

Again, where the L. C. maintaineth the Statute of *Marlebridge* made 52 Hen. 3. cap. 9. which saith, *The great Charter shall be observed in all its Articles, as well in such as pertain to the King, as to others, and that shall be enquired of before the Justices in Eyre in their Circuits, and before Sheriffs in their Counties when need shall be, and that shall be firmly granted against them that do offend, before the King, or his Justices of the Bench, or before Justices in Eyre, when they come into those parts, &c. And the offendors when they be convict, shall be grievously punished by our sovereign Lord the King,* in form above mentioned.

Expost and Quere

I shall but ask, Why not Justi
in Eyre still? And why not W
Gratis sent to the Sheriff of ev
Countie, to enquire of offences,
offendors against the great *Char*
And doth not this Statute pro
that Sheriffs ought to have fu
Writs, and to make such enquir
And that the King referred himse
as well as others, to the judgemen
as well of Justices in Eyre, as of
Justices of the Bench? and that
would have his Writs granted
well against him, as others, and t
Gratis? doth it not further pro
that Kings accounted the Justices
Eyre, his Justices, and their Cou
his Court, as well as the *Kings-Ben*
how therefore doth the Lord C
hereafter call them new Justice
and their Court, new Court? B
more of that in its place.

Now having done with so much
Mag. Charta as I promised: and w
the 5 Chapter of the Statute
Marlebridge: and the 8 of the St
tute of *Glocester*. Here ensueth t
Confirmation of the great *Char*
made at *London* 10 *Octob. Anno*
Ed. 1. three years before that wh

Printed before it, because that containeth all the Charters in 38. Chapters at large, and this but 7. In the First of which it confirmeth both Charters, and every Article thereof; both made 9° H. 3. in general words, as followeth, viz.

Edward by the grace of God, King of England, Lord of Ireland, and Duke of Guyen. To all those that these present Letters shall hear or see, Greeting: Know ye, that We to the Honour of God, and of Holy Church, and to the profit of Our Realm, have granted for Us, and Our Heirs; that the Charter of Liberties, and the Charter of Forrests, which were made by the Commonalty of the Realm in the time of King Henry Our Father, shall be kept in every point without breach. And We will, that the same Charter shall be sent under Our Seal, unto Our Justices of the Forrest, as to others; And to all Sheriffs of Shires, and to all Our other Officers, and to all Our Cities throughout the Realm, together with Our Writs, in the which shall be contained that they cause the foresaid Charters to be published; And to Declare to the People, that We have confirmed them in all points. And that Our Justices, Sheriffs, Majors, and other Ministers, which under Us, have the Laws of Our Land to guide, shall allow the same Charters

Cap. 1. Charters.

pleaded before them in Judgement in all their points, i That is to say The Great Charter, as the Common Law; And the Charter of the Forrest for the Wealth of Our Realm.

L. C. upon Conf. C. f. 526.

The Title of this Statute (saith the Lord Coke) is Confirmationes Chartarum de Libertatibus Angliæ & Forrestæ, viz. The Confirmations of the Charters of the Liberties of England, and of the Forrest: And true it is (saith he) that hereby the said Charters are expresly confirmed; but they are also excellently interpreted (which is a Confirmation in Law) so as here is nothing Enacted, but is included within Magna Charta. And by the Commonalty (saith he) is to be understood, by the consent of all the Realm, by Authority of Parliament: and many times by the Commonalty of England is signified an Act of Parliament, &c. before Printing, and before the Reign of King Hen. the 7th, Statutes were Ingrossed in Parchment, and by the Kings Writ Proclaimed by the Sheriff in every Countie: this was the ancient Law of England, that the Kings Commandments issued, and were published in form of writs (as then it was.) A most excellent course, and worthie to be restored,

nd, &c. This Clause (saith he) is
rthie to be written in letters of gold,
z. That our Justices, Sheriffs, Ma-
rs, and other Ministers, which under
have the Laws of the Land to guid
em shall allow the said Charters in
l points, which shall come before them
Judgement. And here it is to be ob-
rved, That the Laws are the Judges
uides, or Leaders, according to that
d Rule, Lex est Exercitus Judicum,
iz. The Law is the Judges Armie:
atissimus Doctor, viz. The safest
acher: or Lex est optimus Iudicis
ynagogus, viz. Their best Synagoug.
nd Lex est tutissimus cassis, viz.
heir safest Fortress. There is an old
egal word (saith he) called Guidagi-
m, viz. Guidage, which signifieth
e Office of guiding Travelors through
angerous and unknown ways. Here
appeareth that the Laws of the
ealm, hath this Office to guid the
dges in all causes that come before
em, in the ways of right Justice, who
ver yet misguided any man that cer-
nly knew them, and truly followed
em. The sence of the words, That
e great Charter is to be holden for the
mmon Law, is, that it is a Common
w to all, in amendment of the

Realm; that is, of great mischiefs, and inconveniencies, which oppressed the whole Realm, before the making thereof.

Expost and Quer. Doth not the Lord *Coke* by all this his expression, commend this Statute very highly? Why did he not in his duty cause it to be observed in his time? And had not Justices of the Forrest, and other Justices, Sheriffs Majors, and other Ministers of his time (had they received the Great *Charter* with the Kings Writs) power thereby, as well as he, to cause the said *Charter* to be published to the People, and that the King had confirmed it in all points? Why did he (by neglecting his duty to send the said *Charter* and Writs unto them accordingly) make them fail of their duties? Doth not the Lord *Coke* confess by this clause, *worthie*, (as he saith) *to be written in letters of gold, That Sheriffs, Majors, and other Ministers, as well as Justices, and other Justices as well as those at* Westminster, *have, or ought to have the Law of* England *to be their guid, and ought to allow* Magna Charta *in all points, which in any* Plea *shall be before them!*

Why

Why did the Justices at Westminster by their *Habeas corpus*, and other Writs, (as aforesaid) disturb, and prevent all Sheriffs, Majors, &c. to exercise their Offices before Judgment, or after, without proof of Injustice, or manifest Errors committed by them in their Judgements? Why do not the Justices at Westminster (when they have Petitions, and Causes brought before them by Writing of their Writs) allow Suits, to be pleaded before themselves, that they will suffer no others to hear it? How can it be true, (when they do not) that the Law is their gold? Do not they assume the sole Guiding, Learning, Interpreting, Exercising, and Over-ruling of the Law to themselves, when they suffer no other Justices, or Ministers of the King, but themselves to have any Judgement therein, as aforesaid? Why do they bely the Law so much, as to call it their *Guid*, their *Teacher*, their *Army*, their *Synagogue*, their *Fortress*; when it is manifest, That their Attorneys, their Solicitors, their Catch-polls, and their Goalers, are their *Guids*, *Teachers*, *Supernumerous Armies*, and *Invincible*

ble Fortresses, (as they trust, but may be deceived) all whose ways are full of Injustice as aforesaid? How can the Law be called Common to all, which They, and these their Creatures, Monopolize, Ingross, and Appropriate all to themselves as aforesaid?

C. 2. Judgements.

And We will, That if any Judgement be given from henceforth, contrary to the points of the Charters by Us granted, by the Justices, or by any other Our Ministers, that hold Plea before them against the points of the Charters, it shall be undone, and holden for nought.

L. Coke upon Con. C. f. 327.

Whatsoever Judgement is given against this Statute of Magna Charta, *it is made void by this Act, and may be reversed by a writ of Error, because the Judgement is given against the Law; for this Act saith,* Soit de fait & pur nient tenus, viz. *as the Statute Englisheth it self,* It shall be undone and holden for nought.

Expost and Quer.

If so? Why should not all Judgements (appearing as aforesaid, to be contrary to *Mag. Charta*) which are given for Arrests, and Imprisonment of mens Bodies for Debt, be undone,

held for nought? Why did M[illegible] lately trouble the moſt high Court of Parliament (where by ſo doing, he ſhewed himſelf(6) unworthy Member) with a ridiculous uſeleſs Act of his drawing, for the Enlarging poor Priſoners for Debt? Why did not he, (if he did never read this place of the Lord (.) mind the Parliament to command the Judges (who ſeem, if they have read it, to have forgot it) to reverſe their Erroneous judgements againſt Debtors, ſo far as they extend to their Impriſonment, and to ſend their *Liberate* to all their Goalers, to ſet open all their Goal dores, and let forth ſo many of the Priſoners for Debt, as they have left alive? The poor, becauſe they have no Eſtate whereof to pay; the rich, becauſe they have Eſtates ſufficient for all, or part, againſt which Eſtates, ſo much of their judgements may ſtand, as concerneth that, and not their Bodies: and Executions may be taken thereupon, by *Elegit*, or *Fieri facias*, according to the ſtatute of *weſtminſter* the 2. cap. 18th. agreeable to *Magna Charta*, and the Parliament not to be troubled, except to Im-

power the Judges by an Order, to re
ctifie their judgements according
that Law which is in force, and
forgo their Errors, and Repeal
Statute of the 25th of *Ed.* 3d c. 17
which ought to be no Guid, Leade
or Teacher, to learned and gra
Judges, that can never be misguide
by the right Law, if (as the Lord C
ſaith) *they certainly know it, and be pleaſed truly to follow it.* And by this courſe, as well the Creditors of the rich Debtors, as the poor Priſoners for Debt, (that have been wronged by the Judges Erronious judgements, and proceedings againſt *Mag. Charta*) may be partly redreſſed, and ſo reſt ſatisfied, until the Parliament be pleaſed to right them further (as ſhall appear hereafter they may.) So likewiſe may that Priſoner, (which is Impriſoned again after his inlargement by *Garlands* Act) be Enlarged again by the ſame Judge that Committed him, without troubling the Parliament, or People with any ſuch Appeal, as is lately divulged; or ſuffering the *Apprentices Out-Cry* to run ſo far, That now it will never be ſtopped till the Thieves be taken.

And

...ſaid Arch-Biſhops, and ... Cap. 4. Excom. &c.
...ſhall pronounce the Sen...
...of Excommunication againſt
...that ſhall ſay, write, or
...ſhall be contrary to the ſaid
...Statutes, or that in any point break,
...or make them; And that the ſaid
...ſhall be twice a year Denoun...
...and Published by the Bi...
...aforeſaid: And if the ſame
...Prelates, or any of them, be re...
...in the Denunciation of the
...ſaid Sentences, the Arch-Biſhops
...of Canterbury, and York, for the
...time being, ſhall Compel, and
...Diſtrain them to the Execution of
...their Duties, in Form afore...
...ſaid.

This Excommunication the Prelates could not pronounce without Warrant by Authority of Parliament; becauſe it concerned Temporal cauſes. L. C. upon Confir Cart. f. 527.

Was not the Authority of this Parliament ſufficient Warrant for Prelates to pronounce Excommunication according to the Tenor, and limitation of this Act? Doth not the Lord Coke lay before, *That this Act was not only an Expreſs Confirmation of Magna Charta, but alſo, a Confirmation of it in Law?* Doth he not lay before that; *That* Magna Charta *ſhould live for ever, and in all Succeſſions of Acts for evermore?* Is not the ſub- Expoſt and Quer.

ſtance of the Excommunication given by this Act to the Prelates to pronounce? Had the Prelates any more to do therein, but to pronounce an Excommunication? What meaneth *Ipſo Facto* in the Act, but to let all future Ages underſtand, That the breach of *Mag. Cha.* which is a Declaration of the Fundamental Laws of *England*, is ſuch an Offence as deſerveth an everlaſting Curſe inflicted by the Law it ſelf upon the Breakers for ever? Which Curſe receiveth no more ſtrength from the Pronouncer, than a Sentence of Death from a Iudge, who doth but tell a Fellon whom the Law condemneth, what ſhall be the manner of his Death. If any Excommunication was ever pronounced by virtue of this Act (as there were two in two ſeveral Kings Reigns) were not thoſe Excommunications in force, and ſo to continue as long as *Magna Charta* it ſelf? the Prelates, and their Succeſſours neglect of their Duties, by diſcontinuing ſuch Denunciations twice yearly, afterwards notwithſtanding? If ſo? Are not thoſe Excommunications ſtill in force, except Abſolutions be produced,

...ed, and given by equal ...ority, so that whereby those ...munications were Denoun...ed? If so? Are not Excommunica...ions, and Absolutions, of the ...me accompt, and validity in Law, ...s Our-lawries, until they be rever...ed? If so? Are not all the Lands, Goods, and Chattels of all Excom...nicate, now the States, as formerly they were the Kings, and so Seiza...ble, Sequestrable, and Convertible ...to their use, until Absolution? And ought not satisfaction precede Absolution? Ought not that satisfaction extend to every particular man that hath been wrong'd in this case, which (as the L. C. saith) *is a Temporal case*, and so called, in respect of the interest of all men, called by the Clergy, *Temporal*, for distinction from themselves, that would be called *Spiritual*? And so (as I believe) not to be commuted by a *Prelatical Sentence*, to a trivial Pennance, nor pardoned by Parliament, without excepting every particular Interest. And what Parliament can Pardon, or Absolve Offendours against *Magna Charta*, but by the Rules of *Magna Charta*, without offending *Magna Charta* them-

themselves, and incurring the sa[me] Excommunication, as they have in[cur]red that would be Absolved? I[f] Excommunications be no Terrors to *Atheistical* Judges, Justices, &c. who neither Believe, nor fear, Heaven, Hell, God, Justice, nor Laws, (though they cannot in nature and reason, but know that such there are, and are to be beleived, feared, and obeyed) shall not Excommunications be sufficient Warrants for Christians, English Christians in *England*, (being warranted not onely, as the L. *C.* saith, *By Authority of Parliament*, but of many Parliaments, such Parliaments of such Infallibility as were those wherein *Magna Charta*, and all its Confirmations were made, and grounded upon the Common-Laws of *England*, which, as all Lawyers profess, were grounded upon the Law of God, the Word of God, the God of Christians, Christ Jesus, the God of Truth, even Truth it self,) to put them in Execution? If not? To what ends are Parliaments, or the Laws of God, and man, to such as dare not, or will not, if, and when they may? Doth not the Statute of *An°.* 1°. *P. & M.* cap. 12°. which

made

ould be Felony for twelve English
erſons, or above, to aſſemble toge-
her of purpoſe to break any point of
he Laws of *England*, imply it to be
Warrantable for all the People of
England to Aſſemble together, to
make the Laws of *England*, made by
all their conſents, to be obſerved,
and to puniſh not onely the Breakers,
but alſo the onely begetters, and
cauſers of all the Breakers, and
Breaches of all the Laws of *Eng-*
land, the onely aſſumers of the
knowledg thereof, and concealers of
that knowledge from the People; ſo
that none but themſelves, can know-
ingly break the Laws, becauſe they
will not let them know them? Laſt-
ly, If Excommunications be no-
thing formidable to Lawyers, to
make them care whether they incur,
or ſhun them, but as their profit
guids them? Let us ſee what the L.
Coke ſaith, fol. 536. concerning the
concluſion of this Act, and the Seals
that were put to it, and the Oaths
of the King and Parliament, then
and for ever, for the Ratification
of it, omitted in the Stat. at large, in
Print, but to be ſeen in the Tower,
Rot. Parl. 7°. *Hen.* 4^th, *n*°. 60. begin-
ing

ing with the word *Simile*, &c. No (saith he) *the Solemnitie of this Act in that all the Arch-Bishops, Bishops, Earls, Barons, &c. did put their Seals thereunto.* A rare example, which was done for the obliging of them the more firmly to the observation of this Act, which concerned the Laws, Liberties, and Free-Customs of their Countrey; and for their greater Obligation for the due Observation of this Act, they took a voluntary Corporal Oath.

Expost & Q. And let us note, that if the Judgement of God, and this Parliament hath made the Prelates sensible of their slighting of their Predecessors Excommunications, seals and oaths; by what justice, or excuses, shall Lawyers avoid the same Judgement? And though the Ignorance of *Mag. Charta*, and the Law (which Lawyers have begotten & caused by concealing the same from them as aforesaid) can be no safe Plea for any with God, or man, without prayers for Remission, and manifestation of Repentance; yet is Ignorance a better subject for mercy, than knowing wilfulness; and the people, while ignorant of *Mag. Charta*, are more capable

...breaking of it, ...know it, if they put ...Judgements of it, in Execution, ...against the eaters of their of-...

Now I shall let you see, that there ...two Excommunications de-...against the breakers of ...charts, according to this Sta-...as followeth.

Excommunicatio.

The Year of our Lord One thou-...one hundred fifty three, the ...tion of May, in the great hall of the prim-...at Westminster, in the presence, ...before the assent of the King Henry ...the Eight, King of Eng-...and the Lord Richard Earl of ...Cornwall his brother; Roger Bigot, ...Earl of Norfolk and Suffolk, Marshal ...of England; Humphrey Earl of Hereford, ...Henry Earl of Oxford, John Earl ...Warren, and other states of the ...realm of England: Boniface, by ...the mercie of God, Arch-bishop of ...Canterbury, Primate of all England; T. ...of London, H. of Ely, S. of Worcester, ...of Lincoln, W. of Norwich, P. of Her-...ford, W. of Salisbury, W. of Durham, ...of Lincester, M. of Carlile, W. of Bath, ...of Rochester, T. of S. Davids, Bi-...shops, quarrelled in Pontificals, ...with tapers burning against the ...breakers of the Churches Liberties, ...and of the Liberties, or other Cu-...stoms of the realm of England, and ...namely of those which are contained in

in the Charter of the Common Liberties of England, & Charter of the Forrest; have denounced the sentence of Excommunication in this Form: By the Authority of Almighty God the Father, the Son, and the holy Ghost, and of the glorious Mother of God, and perpetual Virgin Mary, of the blessed Apostles Peter and Paul, and of all Apostles, and of all Martyrs; of blessed Edward King of England, and of all the Saints of heaven, We Excommunicate, accurse, and from the benefits of our holy Mother the Church, we sequester all those that hereafter willingly, and maliciously deprive, or spoil the Church of her Rights; and all those that by any craft, or witness do violate, break, diminish, or change the Churches liberties, and Free-customs contained in the Charters of the Common liberties, and of the Forrest, granted by our Lord the King to Arch-bishops, Bishops, and other Prelates of England: And likewise to the Earls, Barons, Knights, and other Freeholders of the Realm; and all that secretly or openly, by deed, word, or counsel, do make Statutes, or observe them being made, or that bring in Customs, or keep them being brought in, against the said Liberties, or any of them; the Authors, Counsellors, and Executors of them, and all those that shall presume to Judge against them. All and every which Persons before mentioned, that willingly

shall

What though the Form of this *Excommunication* be Popish? Is not the Substance the maintenance of *England's* Liberties? And is not that all which the meaning of this Law requireth? If Judges and Prelates, as well since King *Hen.* 8. as before, have neglected their Duties in Interpreting the charge of their Functions, the first, in pronouncing Sentence, and the other in Executing it; doth not once Pronouncing, & once executing of such one Sentence of Law, as concerneth all Ages, Sexes, and Con-

Expost and Quer.

Conditions of People to learn and remember, no less for the Preservation of their lives, and livelihood than Scriptures for their Salvation take away the plea of Ignorance from all men? Shall any man commit that sin which he knoweth to be once so Declared by the Law, and think to avoid punishment because not often so Declared by Law-Professours? Are not all men bound to search the Scriptures, and learn the Laws at their perils therefore? If Ignorance were a plea, shall knowledge be excused? Professors of knowledge, nay, such as ingross that Profession from all others, nay more, such as are the onely causers and punishers of all other mens Ignorance?

It appeareth that this Sentence was Denounced in the time of King *Hen.* 3^d. Now followeth another, Denounced upon the said Confirmation made in the 25^th. year of King *Ed.* 1^st. *viz.*

Exam. 2. In the Name of the Father, the Son, and the Holy Ghost, Amen. Whereas our Soveraign Lord the King, to the Honour of God, and Holy Church, and for the common profit

Realm, hath granted for
him and his Heirs for ever, these
Articles above written. Robert Arch-
bishop of Canterbury, Primate of all
England, Confirmeth all the Pro-
visions, Once, Twice, and Thrice,
because that shortness will not suffer
so much delay, as to give knowledge
to all the People of England of these
Sentences in writing: And there-
upon enjoyns all persons of what Es-
tate soever they be, that they, and
every of them, as much as in them
is, shall uphold and maintain these
Articles, granted by our Soveraign
Lord the King, in all points; And
all those that in any point do resist,
or break, or in any manner hereaf-
ter procure, counsel, or any wise af-
fent to resist, or break those Ordi-
nances, or go about it by word, or
deed; openly, or privily, by any
manner of pretence, or colour: All
the foresaid Arch-Bishop by our Au-
thority in this behalf expressed, do
excommunicate, and accurse, and from
the Lord Jesu Christ, and from all
the company of Heaven, and from
all the Sacraments of Holy Church,
disquerer, and exclude.

Doth not the word, *Hereafter*, ex- Expost & Q.
tend to all successions, and implie a
Duration, as long as there be a *Mag.*
charta, and a breaker of it? Do not
Parliamentarie Oaths, as well as their
Laws, include absents, and futures,
as

as well as present? If neither Oa
nor Excommunications be oblig
rie to Atheists, shall not their ha
and seals, bind them and their He
and Executors after them, as co
upon Bonds signed and sealed
tween private parties, commonly
And more specially, such as take
on them the sole Execution,
Administration of the Laws, Lib
ties, and Freehold of *England*? Sh
not *Charters* of Parliament, made
signed, sealed, and confirmed
Authoritie of Parliaments, bind
Subjects, their Heirs, Executors, a
Administrators, as well, and as far a
private *Charters* of Feofments sha
bind their Contractors, and the
Heirs, *&c.* Nay, as far as Acts of
Parliament can bind, till repealed!
Is not every Court called *Curia*, o
the Care it ought to have to execute
that charge it undertaketh? and not
to exact, and raise Fees, *&c.* for dis-
charging themselves of all their said
Obligations to do even Justice
to all men, and to force men
to pay those exactions, even for
doing injustice? If all before written
be not sufficient to discover that to
be true, and that therefore the Lives,

Lands

Goods poſſeſſed by Judges, Lawyers, all, or moſt of them, are in the States power to ſeize into their hands, to the uſe of the Commonwealth; as aforeſaid: let us look a little further, and we ſhall find more than may. And firſt, the Statute called *Articuli ſuper Chartas*, viz. Articles upon the great Charters, made anno 28. of *Ed.* 1. *viz.* the ſame year as the Confirmation at large (which conſiſteth of 38. chapters of *Magna Charta*) was made; proveth further, as followeth.

Stat. of Artic. on the great *Chart. A.* 28. *Ed.* 1.

Preamble.

For as much as the Articles of the great Charter of the Liberties of England, and of the Charter of the Foreſt, the which King Henry, Father to our Sovereign Lord the King, granted to his People for the eaſe of his Realm, have not been heretofore obſerved, but kept, and all becauſe there was no puniſhment executed upon them which offended againſt the points of the Charters before mentioned: Our Sovereign Lord the King hath again granted, revolved, and confirmed them at the requeſts of the Prelates, Earls, and Barons aſſembled in his Parliament holden at Weſtminſter in the 28 year of his reign. And hath ordained, enacted, and eſtabliſhed certain Articles againſt all them that offend contrary to the points of the ſaid Charters, or any

any part of them, or that in any
transgress them, in the form
ensueth, viz.

First of all, That from hence
the great Charter of the Liberti
England, granted to all the C
monalties of the Realm, and
Charter of Forest in like ma
granted, shall be observed, kep
maintained in every point, in as
ple wise, as the King hath gran
rennued, and confirmed them by
Chart. And that the Charter be deliv
ed to every Sheriff of England sea
the Kings Seal, to be read
times in the year before the peop
the full County, that is to wit,
next County day after the Feast of
Michael, and the next County day
ter the Feast of the Circumcision, a
after Easter, and after the Feast of
John Baptist. And for these two C
ters to be firmly observed in ever
point, and Article (where before
remedy was at the Common Law)
there shall be chosen in every Shir
Court by the Commonalties of th
same shire, three substantial me
Knights, or other lawfull, wise, and
well disposed Persons to be Justices,
which shall be assigned by the King
Letters Patents under the great
Seal, to hear and determine (with
out any other Writ but only this
Commission) such plaints as shall be
made upon all those that commit, o
offend against any point contained in
the aforesaid Charters, in the Shires
where they be assigned, as well

Justices of Oyer & Term.

with-

...s, as without, and as ... the Kings servants out of ..., as for other. And to ... plaints from day to day ... any delay, and to determine ... without allowing the delays ... be at the Common Law: And ... Knights shall have power to ... all such as shall be attainted of ... Trespass done contrary to any ... of the two said Charters (where ... remedy was before at the Com... Law, as before is said) by Im... ment, or by Fine, or by Amer... ment, according to the Trespass. ... sheweth the King, nor none of ... Council that made this Ordi... nance, intend that by virtue hereof, ... of the foresaid Knights shall hold ... manner of Plea by power, for to ... any suit in such cases wherein ... have been remedy provided in ... place, after the course of the ... Law by writ. Nor also that ... Common Law should be prejudi... by the aforesaid, in any point. ... the Kings Counsell, that if all three ... be sick, or cannot at all times ... to do their Office in form a... , the King commandeth that ... of them shall do it. And it is Or... that the Kings Sheriffs, and ... shall be attendant to do the ... commandments of the foresaid Ju... as far forth as appertaineth ... their Offices. And besides ... things granted upon the Arti... of the Charters aforesaid. The ... of his special Grace for reverence of

of the grievances that the people
sustained by reason of his dutie
for the amendments of their
to the intent that they may be
more ready to do him service, and
more willing to assist, and aid
in time of need, hath granted
Articles, the which he supposeth
not onely be observed of his
people, but also shall be as much
profitable, or more, than of the Arti
heretofore granted.

2. Coke 6. 537, 538, 539. One of the causes for the ma
this Act, was (saith the Lord Co
as in the Preamble is suggested
that there was no certain punishme
many points established by the
Charters against the violators of
same; which also by this Act (saith h
is remedied: And the word, Peo
here (saith he) doth include all
Kings Subjects, &c. And again,
word, Pain ne fait estable, some
(saith he) Pain ne fait execute,
that is true in effect; but the Origi
is, Pain ne fait estable; that is,
here was set down certain: And (
he, fol. 539.) This Act had but
force of a Charter, until confirmed
this Parliament, the 34th Ed. 1.
that these Charters should be read
times in the year, in full County, here

taken for the publishing. And
[illegible] we fait avant, &c. it is
[illegible] (saith he) where no Action
[illegible] given by the Kings Writ, to be gov-
[illegible] Common Law, &c. Again, here
[illegible] (saith he) for the better Execution
[illegible] shall [illegible] two Lights, Magna
[illegible] and Charta Foresta, 4 new
[illegible] and new Justices were af-
[illegible], &c. Again (saith he) these
[illegible] against the Kings Servants out
[illegible] places, as well as others: And
[illegible] the Plaints without delay, day
[illegible] day, and to determine them without
[illegible] such delayes as be at Common
[illegible], as the first ground of the raising
[illegible] Justices called, Trail Baston, and
[illegible] Courts so called, in respect of
[illegible] precipitate proceedings from day
[illegible] without such convenient leisure
[illegible] as Common Law allowed, &c.
[illegible] in the end had such Authoritie, as
[illegible] in Eyer; but albeit they had
[illegible] Authoritie by Act of Parliament,
[illegible] if they erred in judgement, a writ
[illegible] Error did lie by the general Rule of
[illegible] Common Law, to reverse the Judge-
[illegible] in the Kings-Bench, which being
[illegible] resolved, and known, and their
[illegible] fettered with so many li-
[illegible]ations, their Authoritie, by little and
[illegible] little vanished.

Expoſt and Quer. Was there any certain Pain eſtabliſhed by this Statute, againſt the violators of *Magna Charta*, other than by Commiſſion in Eyer, that the Juſtices might determine, and puniſh the Offendors by Impriſonment, Fines or Amerciaments, according to the Treſpaſs? Ought not the Juſtices of the *Kings-Bench* to have puniſhed all ſuch as were Indicted before Sheriffs, or Juſtices in Eyer, who had power to inquire, and certifie them of all ſuch Offendors, and Offences againſt *Magna Charta*, by the Statute of *Marlebridge*? 51. *Hen.* 3^d? Doth not the Lord *Coke* ſay elſewhere, *That all Statutes ought to be conſtrued ſo, as that there ſhould be no failer of Juſtice*: ſhould not the Juſtices of the *Kings-Bench* have conſtrued *Magna Charta* ſo? Doth not the 14th chap. of *Mag. Charta* expreſly direct, *That all offendors ought to be Amercied by their equals, according to the quantitie of the Treſpaſs*? Doth the Lord *Coke* ſpeak truth, when he ſaith, *this Statute gave any man Remedie for the certaintie of the puniſhment, other than* Magna Charta *did before*? Was it not made more uncertain by referring it to the Juſtices

...in Eyers discretion, whether Amerciaments, Fyne, or Imprisonment? Doth he not confess plainly, when he saith, *It is true in effect, that the Pain was not Executed, as some had inclined of the Pain was not Established.*) That it was the fault of the Justices of the *Kings-Bench*, in not executing the Pain of Amercying, &c. (as they might, and ought to have done) was the cause of imposing the Justices in Eyer, (who were but Esquirers before) now to determine, and punish such Offenders, and Offences, as they did forbear, &c. The Kings Servants, with whom by this time, they of the *Kings-Bench* campered for their Offices? And was it not for the same cause, the people were Declared to be choosers of Justices in Eyer? And doth not the Lord *Coke* shew a great spight between himself, and his brethren, whom he would have to be Ancient; and the Justices in Eyer, whom he calleth a new Court, and new Justices? And shew his Memory to be weak, as his Envy was strong, when he is forced to give himself the Lye, (either here, or in his Exposition of the Stat. of *Marlebridge*

bridge, where he saith; *They were the Justices, and a Court, though but for Inquiries? And upon the 23th Chap. of* Magna Charta; he saith, they were before that time to give charge to the Juries concerning Wears &c. Doth not the Lord *Coke* say, fol. 235. That Bracton *wrote before the making of* West. 1. *which was* 3. Ed. 1? And doth not *Bracton* lib. 3. cap. 11, 12, and 13. say, *Justices in Eyre were before his time?* Doth not *Camden* in his *Britannia*, pag. 104. say, *They were Instituted by King* Hen. 2? Doth not *Hoveden* in his *Annals*, *part. poster.* fol. 118. b. confirm the same? And add that K. *Hen.* 2. divided the Realm in six parts, & setled three Justices in Eyer to every part, whose names he relateth? And doth not the *Mirror of Justice* lib. 3°. Tit. 1°. *Justice in Eyer, declare their power at large?* And as for their Election by the people, doth he not say, fol. 538. That Magna charta, &c. *containeth the substance of all that is contained in these Articles?* And doth he not say in his Preamble, *That* Magna Charta *is an Act declarative of the ancient Laws, and Customs of* England *before it, and no introductive of any new?*

And

[illegible] 338. That of ancient time, [illegible] the making of this Act, all such [illegible] or Ministers, as were Institu[illegible] either for Preservation of the [illegible] of the County, or for execution of [illegible] (because it concerned all the [illegible] of that County, and they had [illegible] great interest in the due and just exer[illegible] of their places) were by force of [illegible] Kings writs in every several County, chosen in full and open County, by the Free-holders of the same County? Again, (saith he,) So it was then, and yet is, of Coroners, and so it was then, and yet is, of Knights of the Shire for Parliaments, and of the Verders of a Forest, and likewise it was of ancient time of the Sheriff of the County, and restored by this Act: but this is altered by divers Acts of Parliament. Now were not Justices in Eyer therefore that were before *Magna Charta* chosen by the peole, as they were Ministers of Justice, wherein the people were concerned? And were they by this Act but restored to their ancient jurisdiction, as (the Lord *Coke* saith) Shcriffs were? Was not that alteration which was made by divers Acts of Parliament, made by such Acts as were contrary to

Magna Charta? And are not, [illegible] ought not all such Acts to be voi[d] (as the L. *Coke* hath elsewhere said?) Doth not these contradictions declare the Lord *Coke* to have been distracted with spight and envy against Justices in Eyer? And where in this leaf, he would perswade the people to suspect Justices in Eyer, of corruption, and Monopolizing justice to wrong the people that chuse them; can the people believe that these Justices (who are to be chosen by them, and to be displaced by them, when, and as often as they see cause) will, or can wrong them more, than those chosen by the King and his Servants, without their consents, unless they can believe that they may be perswaded to give their consents to wrong themselves? Is it not a Bull of less formality than ever any Popish Bull was, (keeping a man off with his Horns, That he shall have no hold of his tail) when he saith, *That the clause, where no remedy was before, &c. ought to be expounded, where no Action was given by the Kings Writs, to be pursued at Common Law?* Since by the Statute of *Marlebridge*, Justices in Eyer were to

inquire

...ed by the Kings Writs; and ...are, by expreſs words of this ...pter, not onely to inquire, but al...o determine by virtue of their Commiſſions, without the Kings Writs? And what cauſe could they, or can any other Court determine by virtue of their Commiſſion, without the Kings Writs, but is Actionable by the Kings Writs? What doth this Statute give by virtue of this Commiſſion, if all things Actionable by Writs, be not determinable by theſe Commiſſions, without Writs? And what doth this Statute avail, if not conſtructable as others, ſo that there ſhould be no failer of juſtice? Where was the failer of juſtice, but in the Kings Courts, and Iudges, in not executing juſtice upon the Offendors of *Magna Charta*? Doth it not therefore appear that the ſaid clauſe (*where no Remedy was before*) ought to be exponnded, where no remedy was given before by Iuſtices in *Weſtminſter* againſt the Kings Servants, and themſelves, that were the greateſt contractors in the breaches of *Magna Charta*? Were not the Iuſtices in Eyer therefore inabled with a power to ſupply their de-

faults, and to do right to the People against the King himself, and all his Servants at *Westminster*, that willingly failed in their justice and power? And where he saith; *The Justices called*, Trail Baston, *had like authority as Justices in Eyer, and committed Errors, & upon pretence thereof, had all their proceedings transported to the* Kings-Bench; doth it not appear by the Statute called, *Ragman*, that those Justices were made by the King, without the consent of the People, and sent abroad (perhaps of purpose) to err and abuse the people, to give colour to the *Kings-bench*, to send their Writs of Error, for the proceedings of the Justices in Eyer (upon pretence of like Errors) so to suppress all Justice against themselves, and their Creatures? Doth not the Lord *Coke* herewithal prefer the chargeable delaies of causes (spun out by Termes, and Years,) before speedy justice done day by day, at mens own doors, which he calleth, *Precipitat*? Doth he not ground this course, for suppressing speedy justice by Writs of Errors, upon the resolution of the Judges at *Westminster*, which he al-

leadgeth

sufficient to master Authority given by Act of Parliament? And is it not the resolution of all Lawyers, that no power but Parliament, is equal to Parliament, and no Parliament to be so impowred as to evil *Magna Charta*, and its Confirmations? Doth he not further (fol. 559.) alleadge the resolution of all the Judges of *England*, against the King and his Councel, for an Erroneous Act, when they had chosen a Sheriff for *Lincoln* in a case of necessity, without the consent of the People? But to hasten this Treatise to an end, I shall end this Statute for this time, with few chapters following, viz.

That the King hath granted unto his people, that they shall have Election of their Sheriff in every Shire (where the Shrievalty is not of the Fee) if they list. Cap. 8. Elect. of Sheriffs.

I shall say no more to this, than hath been said before.

In Summons and Attachements in Pleas of Land, the Writs from henceforth shall contain 15. days full more at the least, after the Common Law, & A- if it be not in Attachement of Assizes taken C. 15. Summons Attach.

taken in the Kings presence, as of Pleas before Justices in Eyer, during the Eyer.

Expost and Quer. Upon this I must ask, Is not a Writ of Debt, Summons? Should not that be given to the party which ought to be summoned? Should not an Attachement follow by distinction of 15. days, as this Statute prescribeth? Shall the repealed Statute of the 25th of *Ed.* the 3d, serve Lawyers turns to make a distinction between a Plea real, and Personal? And shall that Writ of Summons be counterfeited, either in it self, or in its return, as aforesaid.

Ca. 16. False Retur. of Wr. Such Executions shall be done of them that make false Returns of writs, (whereby right is deferred) as it is ordained in the 2. Statute of Westminster, with like pain, at the Kings commandment.

L.C. upon Ca. 16. 1568. *This is an Act of Confirmation, whereby the Statute of* Westminster *the* 2d. *cap.* 39th, *touching false returns, is confirmed.*

Expost & Q. Doth not the 2d Statute of *Westminster* cap. 39. say, That *the King hath commanded that Sheriffs shall be punished*

punished by the Justices once or twice
if must be for such false Returns? and
if they offend a third time, none shall
have to do therewith but the King, &c?
Doth not the Court of *Kings-Bench*
assume the King to be always there
in Person? And what they speak, to
be his own speech? Is it not they
therefore that should punish Sheriffs
for their false Returns, the third time
of their offence? But is it not in-
deed they, and their Creatures, as
well as those of the *Common-Pleas*,
do make false Returns in the names
of the Sheriffs of *London*, and *Mid-
dlesex*, and do consequently make
those Sheriffs liable to Actions, as a-
foresaid? How can they punish those
Sheriffs for those false Returns, which
they themselves suffer their Clerks
to make, unknown to the Sheriffs,
as aforesaid? And who but they
cause, or suffer all Sheriffs falsly to
Return Exigents with the words,
Per judicium Coronatorum, and the
Coroners names, who know no such
thing? And if any man be Out-lawed
without the judgement of the Coro-
ners of his County, or any mention
made thereof in the Sheriffs Return,
is not that Outlawry as injurious to
the

the Party, Perjurious in the Judges who admit such a Return, and proceed upon it, and as Illegal in the Sheriff that makes such a Return, and as different from due Proces of Law, as the other? And do not those false Returns filed upon their Records, make all their proceedings thereupon, false, and faint Actions as aforesaid? And if all before written be not sufficient to make it appear to the world, that they are not onely Forgers, Perjurers, and Anathema's themselves, but also the onely causers of all others to be, or be accompted the like? And that their Lives, Lands, and Goods, are in the immediate dispose of the present State, by the judgements and confessions of their own mouths? Behold their Oath, which they voluntarily take when they assume their places, whereby they binde themselves further, before God, and man, as followeth, *viz.*

The Oath of the Kings Judges

Ye shall Sweare, that well and faithfully ye shall serve our Soveraign Lord the King, and his people, in the office of Justice, and that faithfully ye shall Counsel the King in his business, and that ye shall not counsel,

...ment, nor assent to any thing ...ich may give him no damnage, or ...ruption, by any manner way, or ...ans. And that ye shall not receive ...y message, or supplication of him, ...ther ye shall not do him to be ...ken by word, writ, or by other. ...t that he shall do even Law, and ...ssession of right to all his Bond...ge, rich and poor, without ...ur regard to any person. And ...t you take not by Power, gift, nor ...ward, nor directly, writ, nor ...ward of gold, nor silver, nor of a...y other thing which may turn to ...ur profit, unless it be meat, or ...ink, and of small value, of any ...an that shall have any Plea, or ...use hanging before You as long ...s the Process shall be in hanging, ...nd after the same cause. And that ye ...ake no Fee, as long as ye shall be ...ustices, nor Robes at any manner great ...easons, but of the King himself. ...nd that ye give none advice, nor ...ounsel to no man, great nor small, ...n no cause where the King is party. ...nd in case that any of what Estate ...r Condition they be, come before ...ou in Your Sessions with Force, ...nd Arms, or otherways against the ...eace, or against the form of the ...tatute thereof made, to disturb ...xecution of the Common Law, or ...o maintain the people that they may ...ot pursue the Law, that ye do ...ur Bodies to be Arrested, and put ...n prison: and in case they be such, ...hat ye may not Arrest them, that ye

Ye certifie the King of their names and of their Wilfull default, that he may thereof ordain a convenable remedie: And that You by Your selfe, nor by other, privily nor apertly, maintain any Plea, or quarrel, hanging in the Kings Court, or elsewhere in the Countrie: And that Ye denie to no man common right by the Kings Letters, nor none other mans, nor for none other cause; and in case any Letters come to You, contrarie to the Law, that You do nothing by such lett, but certifie the King thereof, and go forth to do the Law, notwithstanding the same Letters. And that Ye shall do, and procure the profit of the King, and of his Crown, with all things where Ye may reasonably do the same. And in case Ye be from henceforth found in default in any of the points aforesaid; Ye shall be at the Kings will, of Body, Lands, and Goods, thereof to be done as shall please him: As God You help, and all Saints. Anno, 18. *Edward*, 3. Stat. 3.

Expost and Quer. If Atheists can perswade Christians that this Oath was no binding for them that had taken it, (even the Wise, Learned, Reverend, Judges, Sages, Scientiffimous Interpreters of the Laws of *England*,) sufficient to keep them within the compass of their Oath, Law, and Know-

[illegible]ges? Shall not Christians [illegible]ade themselves, that it is a suffi-[illegible]ent Confession, Declaration, and [illegible]owledgement of their own mouths that [illegible]ole is, that their forfeitures, *viz.* their Lives, Lands, and Goods, in case of their breach of any point of this Oath, are now immediately in the power of the State to dispose of to the publique use, at their pleasure, without any further Proces, or proceedings in Law, but onely to give Order, and Warrant to Arrest the persons of such Offendors to stand to their censures; and to Sequester their Estates, and to divide them to the said use, accordingly? Did Lords ever use any more Law than their own Wills, when they Sequestred, and punished their villains? Had Lords any more Law, Right, or Reason, to Sequester, and punish their villains at their own Wills, but for that their villains did take their Lands upon conditions to do those services which they and their Lords agreed upon, and gave their Lords their Oaths (as their greatest bonds) to perform those conditions, or in case of breach, to suffer their Lords to repossess their Lands, with the for-

forfeitures of their Goods, (which they gained) and their Lives (which they sustained) upon the same Was the Oath of a Villain (though made by Parliament, to the end that Lords should be well served by their Slaves in their private and meanest Offices) of as considerable consequence to be observed, or in default thereof, their forfeitures to be executed, as the Oath of Judges, made and Confirmed by several Parliaments, to the end, that the common-wealth should be well served by their Justices in their publike, and most honourable (if rightly served) Offices of Judicature, and administration of Justice? Are not such Villains, as dare incroach, not onely upon their Lords Lands, and Estates, but also upon their Lives, and Liberties, dangerous, transcendent, Hyper-Prelatical Usurpers? Are not such Usurpers intollerable mischiefs in a Common-wealth? Who being sworn servants to the Common-wealth (as by this Oath it appeareth the Kings Justices were) make all the Common-wealth their servants, to attend their Trains at *Westminster* at their pleasures? And

all

all Prisoners for Debt, not onely their own Villains, but also Villains to their Villainous Gaolors, and Slaves to their Slaves? Are not the Councell of the Free-People of England interested in the due execution of Justice, to which these Judges were sworn? (as well to them, as to Kings) and consequently ought they not to be such Lords as dare, and will take the forfeitures of such Villains, as do them daily Injustice? Is not that Oath a sufficient Evidence in it self, that the takers of it, have, & do daily break it? & cause all others that have, & do break it, so do so likewise? Since Kings and People have wholly referred themselves, and their Estates, not onely to the Justice of their Judges, but also to their fatherly advertisements, and admonitions (whereby they ought not to suffer any that depend upon them, to err through ignorance) and they (contrariwise) admonish none not to offend, but suffer, and cause more to offend than willingly, and wittingly would; and so do, for want of such admonitions, much more increase, and enhance the Markets of their Justice, by suffering no o-

ther

ther Judges to admoniſh, or Juſtices any offendors at home, and ingroſſing all to themſelves at *Weſtminſter*, or before ſuch as they ſend to ſniper for them, in Aſſizes, Goal-Deliveries, and *Niſi prius's*. Have not ſome preſent Grafts of the old ſtock Judges of Aſſizes in poſſibility for the *Country*) & their Agents in *Chancery*, procured ſeveral late Injunctions to be diſſolved in *Chancery*, without the privity of both parties whom they concerned, to the end onely to beget work for them in the Aſſizes, leſt they ſhould want better? Did our late Judges lawfully counſel King *Charls* in his buſines, when they gave their Reſolutions for him concerning the Ship-money? Did they not aſſent to a thing, or things, that turned to his dammage and diſheriſon, and overturned him, and his Poſterity out of three Kingdoms, and his life to boot, when they aſſented to Ship-money, and Monopolies? Did not the Kings Councel and other Serjeants, and Lawyers, draw (if not plot) all ſuch Patents? Got they not more by their Fees, for their adviſe therein, (which were preſent pay) than the King did by his reſervations for intereſt in

those Grants which are yet in Arcan? Was any thing reserved to the King thereby, but what his Councel learned thought fit, and advised him to take, and the Patentees to give? Did not those Judges, that had the keeping of both the Kings Seals, assent to all those unlawfull things, whatsoever they Sealed? Briefly, doth not this Oath in every point evidence the Judges at *Westminster*, and their brethren to have been the chief betrayers of Kings and People in their chief trust, to guide and hold both in the right way, and did they not lead both wrong? And thereby are the chief Authors of all the blood spilt, and estates ruined in these three Kingdoms, in and by these late Wars, which were undertaken for Reformation; onely of such deformities in Law, and Government, which (you see) they had power to keep in form by their lawfull judgements, or admonitions to the right, or not consenting to the wrong? Do not our Records, and History testifie, that all the Civil Wars of *England*, were alwaies undertaken for Reformation of Injustice, evil Government,

ment, and corrupt Lawyers the
were alwaies the causers thereof, b
breaking, and causing to be brok
the Liberties of *Magna Charta*, which
the People sought alwaies to reco
ver? Were not *Hugh De Burgo*, Chief
Justice of *England*, *Walter De Lawfie*
Lord Treasurer of *England*, *Brember*,
Thrislian, *Bellknap*, *Thorp*, &c. exam-
ples of their times in that case? If o
few examples will not serve to mak
all Judges mend, should not all such
Judges be made examples, to serve
posterity to see that such evils are
not necessary for Common-wealths?
Shall such Extrajudical Judges, such
lawless Lawyers, &c. as will not be
tied by Oaths, made in, and by
Parliaments; Excommunications
denounced by Authority of Parlia-
ments, *Charters* Signed, Sealed, and
Confirmed in, and by Parliaments,
nor by Acts, Laws, and Statutes
made by full and free Parliaments,
be suffered to sit with Christians in
Parliaments to make Laws, Vows,
Oaths, and other Obligations upon
Christians, which shall be none to
themselves? But let us see further,
what an other Act of Parliament saith
to this Oath, assembled, *viz.*

Edward

...ving by the Grace of God, &c. The ...ff of ... greeting. Statut. ...that by divers complaints 20. E. 3. ... to us ... have perceived Pream. ... the ... Land, which Letter. ... God and Reason to main- Justice. ... (as the ... will have) and the ... of the same ... to maintenance, and pur- ... as well in the Courts of ... Country, as ... we ... of Conscience in this matter, and for ... cause, ... as much ... the ... of God, and ... and ... of Our Subjects, as in ... Conscience, and ... to save and ... Our said Oath, by the assent of ... Great men, and other Wise men ... Our Council; have ordained ... things following, viz.

First, We have commanded all Cap. 1. ... Justices, that they shall from ... to time, ... Law, and execute ... of right to all Our Subjects ... Power, without having regard ... any person, and without ... to ... for any letters, or commandments ... which may come to them from ... or from any other, or by any ... Cases in that ... Letters. ... or commandment coming to the ... or to others, ... to do ... and right, according to the ... of the Realm, in disturbance of ... Law, or of the execution of the ... or of right to the parties; the ... and other aforesaid shall pro-

proceed, and hold their Courts, and Processes where the Pleas, and matters be depending before them as if no such Letters, Writs, or Commandments were come to them. But they shall certifie Us, & Our Council of such commandments as be contrarie to the Law, (as before is said) And to the intent that our Justices should do even right to all people, in the manner aforesaid, without any favour shewing to one, more than to another, We have done Our said Justices to be sworn, that they shall not from henceforth, as long as they shall be in office of Justice, take Fees nor Roabe of any man, but of Ourselfe. And they shall take no gift, nor reward by themselfs, nor by other, privily, nor apertly of any man that hath to do before them, by any way, except meat and drink, and that of small valure; and that they shall give no counsel to a great man, nor small, in case where We be Partie, or which do, or may touch Us in any point, upon pain to be at Our will, Bodie, Lands, and Goods, to do thereof as shall please us, in case they do contrarie: And for this cause We have increased the Fees of the same our Justices, in such manner, that it ought reasonably to suffice them.

Justice

Fees. Roabs

Expost and Quer. Doth not the King say here, He is bound by his Oath to maintain the Laws

the Law? Doth not the
[illegible] say before, *That a King is*
not where equalis exercis dyt? Did
[illegible] so ought not all Kings of *Eng-*
[illegible] take the like Oath as this King
[illegible] Were they not therefore bound
[illegible] maintain the Laws of *England* as
[illegible] he? and to be advised, and
[illegible] by their Judges, how to main-
[illegible] as the Oath of the Judges,
[illegible] Statute, and others, do manifest
[illegible] were? Are not Judges as In-
[illegible] as Kings in their Politick ca-
[illegible]? Are they not bound by their
[illegible], not onely to maintain, and
[illegible] the Laws of *England* against
[illegible], without regard of Persons,
[illegible] also to advise their Kings to
[illegible] them, and how so to do,
[illegible] hinder, or not consent with
[illegible] Kings to break them? Were
[illegible] the maintenances (whereof the
[illegible] here complaineth, and the
[illegible] ments as well in Court, as in
[illegible] ney, whereby (he saith) *the*
[illegible], and *the due execution thereof*
[illegible] *disturbed*) the remainders of
[illegible] Fashions of the *Spensers*, and o-
[illegible], who in *Edward* the 2d his
[illegible] had made such Judges, as had
[illegible] all Laws out of all order; so

that this King, being *Edward* the 6. could not reform what had been deformed hitherto? but now endeavoureth to do it by means of the Oath made in Parliament in the 18th. year of his Reign, and the Act made in the 20th. If Kings endeavoured to perform their duties (as this King did, and Judges would not) should not such Judges suffer, as in this Kings time divers did? If Kings, and Judges, (commonly so their Oaths, and Offices) omit their duties (as this Kings Father, and his Judges did) should not such Kings and Judges suffer for their defaults, as he and they did? If Kings, and Bishops did lately neglect their duties, (commonly so their Oaths, and Offices) and were punished for their defaults? why may not such Judges as wrest the greatest Delinquents for suffering them so to offend? and more for consenting thereto? And more than that, when they advise the same? If the former Sacrilege of those *Nadab* deserved Gods indignation against all his People of *Israel*, until they discovered, and punished him, and his Offence? What doth that manifest enormious (a sin no

...s prohibited than Sacrilege) of ... merit of Gods ...dgements against the whole Nati... of England, if they prosecute not, ...r leave unpunished, their Offences, ...which are more than Extortions; as ...rjuries, Forgeries, Sacrilege it ...lf, and divers others spoken of be... *Judge, O People? Judge, your ...lves, O ye People, least ye be Judged.*

FINIS.

POST-SCRIPT.

IF it please the Parliament to require more proofs than common experience of the common breach of all the Common Law of England, *by our common Mercinary Judges, they may cause Commissions in* Eyer, *or other* Oyers, *and* Terminers *to be issued to clear the matter by more particular evidences.*

Eight Observable POINTS OF LAW;

Executable by Justices of the Peace in their *Counties*, and Magistrates in their *Corporations*.

Necessary to be known to the COMMON PEOPLE.

1. COunties and Sheriffs Turns, were ancient Courts in the time of King *Arthur*, & before; And in the Turns were tried all Pleas of the Crown; & in the Counties all *common-Pleas* under fourty shillings without Writ; and above, to any value with Writs, according to the Law maxim, *Quod Magna Charta de Catallis, debitis &c. quæ Chartæ summam 40^l. attingunt, vel excedunt*

1. *The choise of all Officers of Peace and Trust, anciently in the Pople, continued by Magna Charta.*

secundùm legem & consuetudinem Anglie, sine brevi Regis placitari non debent. See the Lord Coke upon the 35th Chap. of Magna Charta, and upon the Statute of Glouc. fol. 310. & 312. Hundreds, and Corporations have the same power, and rights, and neither Sheriffs nor Stewards are Judges, but suiters onely, fol. 312. And so all men were to have Law and Justice at home, cheap and near, and not to fetch it from Westminster, far and dear. And the Conservators, otherwise called Guardians of the Peace before Magna Charta, and since, had all necessary power to maintain their Counties in Peace, and to execute all Laws conducing thereunto, and to command the power of their Counties to assist them; and were chosen (as all other Officers of Peace and Trust were) by their Counties, as the Lord Coke affirmeth.

2. This Mutuum is usual in the Kings-Bench, and Common-Pleas, 2. Jacob. 3007 mem. 40. 3. Sum. Victh. 17. Cornwall & London. fol. 54.

2. As Superiour Courts ought not to incroach upon Inferiour, so the Inferiour ought not to defraud the Superiour, of those causes that belong to

debt of 40 l. and to Outlaw him in the Common-Pleas, if he come not; which not withstanding to commit other Courts of Record before the

whether lawful or such

daily used by Attornies; nor in any inferiour Court for debt of 40 shillings, or exceeding, by dividing it into Actions under 40 shillings. In which cases the Defendant ought to be admitted to plead to the jurisdiction of the Court, and to have a Prohibition to stay the suit: See the Lord Coke, upon the Stat. of Glouc. fol. 311. And all Courts were to dismiss all Actions entred without sufficient bail to prosecute, answer, and for costs and damages. If any fained, or false and not Jo. Doe and Rich. Ro. as is used. See F. N. B. Just. P. the Register, and Fitz. Nat. Brevium at large. And no Court of Record was to proceed in any action of debt, before the Plaintiff swore his said debt to be 40 l. or more, and his damage in trespass to be so much at least: And if Battery, that he was beaten indeed, to his unreasonable hurt to that value. See the Stat. of Glouc. and the L. Coke upon it, with his

reason for the discontinuance of this practice.

3. Doth not the denial of an Habeas Corpus, to bring a prisoner before a Judge without Fees, (both to Judge and Attorney) include the sale, delay, and denial of Justice, while the prisoner is unprovided to buy it.

3. All the Kings Writs for the doing justice and right to all men freely, and speedily, without delay or denial, ought to be granted, and had freely at the Kings cost. And justice ought to be done freely, without sale; fully; without denial; and speedily, without delay: whereby (with the Lord *Coke*) it appeareth that justice must have three qualities, *viz.* To be Free, because nothing is more vile, than what is venal; Full, and perfect, that it may not halt; And speedy, because delay is a kind of denial. See the L. *Coke* upon the Stat. of *Marlbr.* chap. 80. Thus to have and do, was the Common Law of *England*, and the Liberties, and Right of the *People* before *Mag. Char.* and saved unto them by it: and the best Birth-right they ever had, or can have; whereby their Lands, Goods, Wives, Children, Bodies, Lives, Honours, and Estimations ought to be protected from injuries. See the L. *C.* upon the 29 & 38 c. of *M. C.*

4 There-

4. Therefore *Magna Char.* ought to be read, and published to the people in all Cathedrals twice yearly: And all breakers thereof are excommunicated *ipso facto*, and so twice pronounced by two Acts of Parliament, *Vid. confirm. & excommun. in Rast. abridg.* fol. 65. and 141. And it ought to be read in full County in every shire, four times yearly, and all the breakers thereof inquired of there, and further inquired of, and punished by Fines, Imprisonments, &c. by Justices in Eyre, two of every Counties chusing, whereby 12. or 14. may serve in circuits throughout *England*, and *Wales*, divided into six or seven Provinces, as twelve did serve for all *England* divided into five. See, and compare *Rast. abridg.* fol. 65. and *Roy. Hoveden parte poster. Annal.* fol. 548. The not reading, and publishing of *Mag. Char.* is the default partly of Sheriffs not requiring it; partly of the Clerk of the Crown, &c. not sending it to them under Seal. All defaults of Sheriffs, &c. are inquirable, and punishable by Justices of

Magna Char. 4. *All defaults, & offences of Sheriffs, Coroners, Escheators, &c. inquirable, and punishable by Justices of Peace.*

Peadezas *Lamb, Fitz. H. Crompt. Dalt.* &c. affirm at large.

4. *Observe the perplexed choice resumed by this Statute when the King presumed to make Justices of P. and under that specious Title to empower them, first to affront, and by degrees to suppress, and at last to extinguish the larger and ancient power of Conservators. A Prerogative imposture devised by Lawyers for their own advantage, when they got the King to confer this creation of Justices of Peace, upon his Chancellors, and Keepers, to whose creatures he came obliged to submit all Westminster Hall, contrary to Mag. Char.*

5. Justices in *Eyre* are discontinued long since, and not onely for that they were interrupted, and wearied out by the Prerogative Judges, and Courts at *Westminster* by their *Certioraries*, *Corpus*, *Writs of Error*, *Supersedeas*, *Habeas Corpus*, *Certiorari*, *Mittimus*, *Procedendo*, *Ne Exeat Regnum*, *Quo Minus

[illegible] institution of Justices of Peace, in the 18th year of Ed. 3d. in which [illegible] was also ordained the Oath of all Judges, and Justices of Oyer and Terminer for the due execution of Justice, without sale, delay or denial, which the three reverend Judge Anthony Fitz. Herb. admonisheth them duly to consider it, and their duty to God, and their Countrey, not to break upon any conditions, Nat. Brev. in fine fol. 240. d. but now the common practice is otherwise.

6. Any that will ought to have Commissions of Oyer and Terminer for Extortions, Oppressions of Bailiffs, and Misdemeanours of Sheriffs, Undersheriffs, Gaolers, Bailiffs, Escheators, See Crompt. Just. Peace, fol. 51. 8. Pitz. Ha. Justices of Peace, and all other Commissioners that ought by their Commission, and Oaths, to punish all such offences, do require no less than powers, and the greatest malefactours of all other, themselves. Nor can any

6. Justices of Peace ought not to be seduced to transgress Mr. Petition of Right, by any Statutes contradicting them, nor to lose the publike interest for a private Prerogative usurped, but to re-assume their authority to People, to act as conservators of the ancient power, and protect of the Commonwealth: as in cases of Retainer, men stand on their best Title.

Writs

Writs of *Certiorari*, *Corpus cum causa*, *Errour*, *Supersedeas*, or putting out of Commission, excuse or supersede them to finish their Judgements and Executions in all such causes brought in question before them. See and compare the Stat. of 2. *Ed.* 3. and 14. *Ed.* 3. 14. and the 20. *Ed.* 3. 1. and the *Procedendo* thereupon in *Fitz. H. Na. Bre.* fol. 240. where it is said; *They shall proceed to justice according to law, notwithstanding any Letter, Commandment, Prohibition, Writ, Privy-Seal, or Great Seal to the contrary.* And if any such things be granted by the King, or any of his Judges, or Courts, such a *Procedendo* ought to be granted by the Keeper of the Broad Seal to countermand them; and to command justice, judgements, and execution to be done, even against the King, much rather against Judges, who under colour of Authority and justice, delude and wrong Kings, and *People*. For (saith the L. Coke upon the Stat. of *Marlebridge*, cap. 5.) *there is no greater injustice, than when under colour of Justice, men are injured*: but *Writs of Certiorari Corpus cum causa, and Errour*, ought to be had, and granted,

upon

proof of malice, partiality, injustice, or errour in matter, committed by any inferiour Court, but not upon suggestions, or bare suppositions, as is used: See and compare therefore all the said Statutes in this case, together with M. *Dearhams* Manuel, p. 25. Nor by any Superiour Judges or Courts that are parties, or concerned in the cause. see the Lords upon *Art. super Chart.*

7. The granting of Writs, or Commissions to do injustice by, or to stay, or delay justice, where is is done, or doing; or to deny Writs or Commissions to cause or further justice to be done, (which always was, and yet is the practice of the Prerogative Judges at *Westminster*) not onely to cross, & interrupt Commissioners legally chosen in, and by their Counties, (as Justices in Eyre were) and such, and all Justices of Peace, and Officers of Trust, and concernement in, and to the Common-wealth, still ought to be) is the worst of all Oppressions, and a general destruction of Law and *People*, com-

7. *These oppressions are daily committed by mercinary lawyers, by colour of Statutes of their own devices against Mag. Ch. which Statutes ought to be repealed, & the longer execution thereof resisted by all, or any necessary means.*

committed by colour of an usurped Authority, as saith the L. Coke upon the Statute of Marlebr. cap. 4. To prevent which (his Lordship further saith) *It is lawful for the People to take up Arms, or for Inferiour Judges to commit their Superiours and that before any Verdict or Judgment, because they worthily lost the benefit of Law, who intend to subvert it; and Subordinate authority is now to be obeyed, and assisted in the execution of Justice, when the Supreamest is to be endured to obstruct it.* All this, and more, is to be read in effect, in the L. Cokes Exposition upon *Art. super Chart.* and the Stat. of Marlebr. which if executed by Justices of Peace in their Counties, and Magistrates in their Corporations, would soon regulate abuses, settle Peace, and much inable the State, and Common-wealth to pay publike debts, and relieve distressed Souldiers: For it is Law it self, as virtue it selfe, invirtuateth, dignifieth, and authoriseth her true servants to execute her precepts; and confoundeth, expulseth, and turneth out of her service all her unjust Stewards, and underminers: As *Jacob*, and *David* were

were presented before their elder Justices; and Saul, Ferabeam, &c. were confounded by and for their evil practices.

8. Under the Titles of Treasons, Contempts, Misdemeanors, Extortions, Riots, and unlawful assemblies, comprehended in all branches of Magna Charta, and all Offences against all Statutes in force, and concurrent with Mag. Char. and the Petition of Right, which all Justices of Peace, and Magistrates in their several jurisdictions, are authorized, and sworn to hear and determine, without fear, favour or respect of person. How then to be excused, or delayed by any Writ, or command of any Superiour? And how are the Judges of the *King's-Bench* (whereof the cheif was the Kings Depury by Writ now Superiour, or equal to any other Judges, or Justices? If that maxim be true *meritur Actio cum Persona*? But the Office of a Deputy dieth with its Master, as a Letter of Warrant of Attorney, with its maker:

8. *As in all these cases, &c. all Justices of Peace should be exacted to observe their Oaths, and perform their duties to the Common-wealth (whereof they are eminent members). So, no doubt the Freemen of England, would be ready to assist them in the retaining and preservation of those ancient Birth-Right, Laws, and Liberties. Deus Faxit.*

ker: the *King-Bench* may be feared as well as his person? And all causes in this Common-wealth, be called Common-Pleas, and tryed by the Common Law of the land, and Verdicts of common people, and Free-holders of every County, and Corporation, before the Free Judges, & Magistrates freely chosen by the said Common and Free-People, to justifie them at home, and not before mercinary makers, expounders, and sellers of all Lawes, and Liberties, as they please at *Westminster*. And doth not the said Stat. of 28. *Ed.* 3. warrant Justices of Peace, or any two of them (whereof one to be of the *Quorum*) to call and keep Sessions as often as they see need to do justice to their Countrey? See the Stat. at large, and *Cromp. I. P.* fol. 112. and *F. H. I. P.* fol. 10.

Whereunto adde, That as *Magna Charta* compriseth all the Law of this land agreed upon by Kings and People, and would be read and published in English (as aforesaid) for the better understanding thereof by all English People, to the end, that the ignorance of their Law, should be no excuse for any of them to

trans-

transgression: So how needless it is, (for pestiferous,) to have this Common-Law reduced to a private mercenarie Trade, or particular science exceeding the seven Liberal, by such professions thereof, as have, and do endeavour to disguise, mask, and hide it from all but themselves, in their French, and Latine intricacies and obscurities, to the end to make all persons offendors thereof, and none excusable, but by their resolutions of their own Riddles, which are alwaies answerable to their Fees (be the cause right or wrong) whereby the cure of Law becometh an incurable disease, until that superfluous mercinary profession be abolished, or regulated, so as the best and learnedest Lawyers may be used in Parliaments (as in former times) to sit upon Wol-sacks, to answer to what that high Court shall be pleased to aske them, and not as members of that Court, to make Lawes, and Oaths for others, which they never observe themselves but for their own gain, and the peoples damage: To which end, they alwaies preamble their inventions against *Reg. Char.* with titles of Acts for the

good

good of the people, when in the subsequents they hurt all but themselves; As Casting by all former their last Acts for the inlarging of poor prisoners for debt, sufficiency witnels; whereby neither creditor nor debtour are any way relieved but both further entangled, and Lawyers Fees more procreated; *Vide experientia. Conclusive*; That there can be no firm peace, or end of Wars, till there be an end of monstrous professours of Law, less needfull, or useful for Parliaments & People, than Bishops, of such as might be used there, or elsewhere, for saying, or reading prayers; while these neither pray, preach, nor study, but their own lucrative imaginance every where upon the peoples purses.

Add to which, Such Justices of Peace as will not execute *Acts of Court*, with its confirmations, and the *Statutes of Right*, and defects, and were the execution, and practice of contradictory to Statutes, (for zeal to their Creatour, or fear to be unmade by those that made them) ought to be defended, and rewarded by all good Patriots of their country, as excommunicated

...ected persons, and breakers of *M.* ...ch. And such onely as will execute *Mag. Ch.* &c. ought to be confirmed by the choise of the *People* in their Counties respectively, whereby they may act as the ancient Conservators of the Peace did by the Common Law of *England* before *Mag. Char.* and since, which was, to conserve the Peace of *England* by all necessary means, word, or sword; unlimited by Prerogative Statutes devised by mercinary Lawyers, to steal from the People their birth-right Authority in the name of the King, unto themselves, to sell, delay, and deny it at their pleasures; which to do, is apparently contrary, not onely to *Mag. Char.* and the Common Laws of *England*, and also to common reason, but chiefly to the divine Providence of God: for neither Law, Reason, nor Divine justice, would ordain a man to conserve the publike peace of Gods people (which peace, as they, is his own) without giving that man an unlimitable power, by which he may execute his Office, and without which he cannot.

FINIS.